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ABSTRACT

This publication is intended to accompany the official cohort default rate notification letters sent to postsecondary schools each year and to be used by the schools in preparing materials used for appeals. The guide covers the Federal Family Education Loan Program and/or William D. Ford Direct Loan Program cohort rates and does not contain individual school cohort default rates or guaranty agency or lender cohort default rates. The report explains how the Department of Education calculates and reports fiscal year official cohort default rates; the effects these rates have on schools; schools' eligibility to request a rate adjustment; and schools' appeal rights. Following an introduction, a section provides general information on cohort default rates, sanctions, and the loan record detail report. Another section is on appeals. A subsection for schools offers guidance for the following types of appeals: request for adjustment, erroneous data appeal, improper loan servicing and collection appeal, and exceptional mitigating circumstances appeal. A subsection for guaranty agencies provides information on monthly status reports, requests for adjustment, the exceptional mitigating circumstances appeal, the erroneous data appeal, and the improper loan servicing and collection appeal. Six appendices list guaranty agency contacts, direct loan servicer contacts, Department of Education contacts, text of relevant regulations, and user comments on the guide. (DB)

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ED 421 941

Official Cohort Default Rate Guide

FY 1996

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U.S. Department of Education

Default Management Division

U.S. Department of Education Useful Information

General Departmental Information

U.S. Department of Education Website
http://www.ed.gov

Code of Federal Regulations (CFR)
http://ifap.ed.gov

Federal Register
http://ifap.ed.gov

Higher Education Act of 1965 (HEA), as amended
http://ifap.ed.gov

Student Financial Aid Information

Federal Student Aid Information Center
If you need copies of the Department's regulations, "Dear Colleague" letters, or other student aid publications
(800) 433-3243
http://ifap.ed.gov

SFA Customer Support Branch
(800) 433-7327

Ordering FAFSAs
(800) 284-2788

FAFSA on the Web
(800) 801-0576
http://www.fafsa.ed.gov

Specific Office-Related Information

U.S. Department of Education
Debt Collection Service (DCS)
If you have questions about collection of individual defaulted loans assigned to the Department
(800) 621-3115

U.S. Department of Education
Guarantor and Lender Oversight Service (GLOS)
If you need information on lender or guaranty agency cohort default rates
(202) 401-7482

U.S. Department of Education
Institutional Participation and Oversight Service (IPOS)
If you have questions about recertification, audit resolution, financial analysis, program review, and institution improvement
(202) 205-0183

U.S. Department of Education
Default Management Division
If you have questions about cohort default rates
(202) 708-9396
e-mail: IPOS_Default_Management_Division@ed.gov

Contents

Introduction *1*

General Information *5*

Cohort Default Rates 5

Sanctions 17

Loan Record Detail Report 19

Sample Loan Record Detail Report 23

Request for Loan Record Detail Report Form 27

Appeals

Information for Schools on Appeals *29*

At-A-Glance Information - Appeal Tips 29

Appeal Eligibility Worksheet 31

Request for Adjustment 33

Erroneous Data Appeal 43

Improper Loan Servicing and Collection Appeal 71

Exceptional Mitigating Circumstances Appeal 99

Participation Rate Index Criterion 105

Economically Disadvantaged and Placement Rates Criteria 121

Economically Disadvantaged and Completion Rates Criteria 145

Withdrawing an Appeal 167

Information for Guaranty Agencies on Appeals *173*

Background 173

Monthly Status Reports 174

Request for Adjustment 178

Exceptional Mitigating Circumstances Appeal 178

Erroneous Data Appeal 179

Improper Loan Servicing and Collection Appeal 188

Withdrawing an Appeal 197

Appendices

Appendix A—Guaranty Agency Contacts

A1—Numerical Listing 3

A2—Alphabetical Listing 15

Appendix B—Direct Loan Servicer Contact

Appendix C—U.S. Department of Education Contacts

Appendix D—Abbreviations and Acronyms

Appendix E—Pertinent Parts of the HEA and Related Regulations

E1—HEA 3

E2—Regulations 9

Appendix F—User Comments on the *FY 1996 Official Cohort Default Rate Guide*

User Comments Worksheet 3

Introduction

What is this guide?

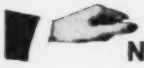
The *FY 1996 Official Cohort Default Rate Guide* (Guide) is a publication that the U.S. Department of Education (the Department) sends to postsecondary schools along with their official cohort default rate notification letters each fiscal year. This guide should be used for that appeal material that is prepared after the release of the FY 1996 official cohort default rates but prior to the release of the FY 1997 official cohort default rates. The guide discusses:

- how the Department calculates and reports fiscal year official cohort default rates,
- the effects these rates have on schools,
- schools' eligibility to request a rate adjustment,

AND

- schools' appeal rights.

Official cohort default rates are released to the public.



Note **This guide is about school Federal Family Education Loan (FFEL) Program and/or William D. Ford Direct Loan (Direct Loan) Program cohort rates.**

This guide does not discuss Perkins cohort default rates. For information on Perkins cohort default rates, please call (202) 708-8242.

- It does NOT contain actual school cohort default rates.

AND

- It does NOT contain guaranty agency or lender cohort default rates.

If you would like to make comments on this guide, please fill out and return the "User Comments" worksheet on page 3 in Appendix F.

Which student loans are included in a cohort default rate?

A cohort default rate is calculated using Federal Family Education Loan (FFEL) Program loans and/or William D. Ford Direct Loan (Direct Loan) Program loans, creating a snapshot of student borrowers who entered repayment on their loans during a statutorily-mandated time period. Nonfederal student loans and other federal loans are not included in the calculation.

If a school's former students enter repayment on loans from only one of these programs in a given fiscal year, it will receive a cohort default rate based solely on the loans entering repayment in that loan program. If a school has loans entering repayment from both the FFEL Program and Direct Loan Program, the Department will calculate a "dual-program" official cohort rate that includes both types of loans. This means that a school will receive one of the following types of official cohort rates[1]:

(1) an FFEL Program official cohort default rate,

(2) a Direct Loan Program official cohort rate,

OR

(3) a dual-program official cohort rate.

Regulations use the term "weighted average cohort rate" as the name for the rate that includes both Direct Loans and FFEL Program Loans. This guide uses the term "dual-program cohort rate" to describe the same rate and calculation.

Note In this guide, the term "cohort default rate" applies to FFEL Program, Direct Loan Program, and dual-program cohort rates unless otherwise stated.

1. 34 CFR § 668.17 (d), (e), and (f)

How is a "fiscal year cohort default rate" calculated?

A school's fiscal year cohort default rate is calculated based on the percentage of a school's FFEL Program and/or Direct Loan Program student borrowers who entered repayment on their student loans in a specific federal fiscal year (October 1 to September 30) and then defaulted (or, in the Direct Loan Program, for proprietary non-degree granting schools, entered into the Income Contingent Repayment [ICR] Plan and met certain conditions) before the end of the following fiscal year.

The Department calculates cohort default rates for postsecondary schools using a formula included in the Higher Education Act of 1965, as amended (HEA).

See page 7 for more detailed information about calculating cohort default rates.

How do student loan default rates affect a school?

There are consequences for schools with official cohort default rates that exceed certain thresholds. The HEA and Department regulations describe these consequences and the sanctions that apply when a school's cohort default rate is at or above certain percentages.[2] These consequences, sanctions, and threshold percentages are detailed throughout this guide; in addition, relevant parts of the HEA and the Department's regulations are in Appendix E.

See page 17 for more detailed information regarding sanctions.

- Specifically, the HEA and the Department's regulations mandate that a school with an official cohort default rate of 25.0 percent or greater for the three most recent fiscal years (in this case, FY 1994, FY 1995, and FY 1996) loses eligibility to participate in the FFEL Program[3] and/or the Direct Loan Program. Such an institution is ineligible to participate in the FFEL Program and/or Direct Loan Program for the remainder of the fiscal year in which the cohort default rate is released and for the two succeeding fiscal years, UNLESS the institution successfully appeals its loss of eligibility.[4]

2. At the time of the publication of this Guide, the loss of FFEL Program and Direct Loan Program eligibility sanctions do NOT apply to historically black colleges and universities, tribally controlled community colleges, and Navajo community colleges until July 1, 1998. See HEA Section 435(a)(2)(C) and 34 CFR § 668.17(b)(5).
3. HEA Section 435(a)(2)
4. HEA Section 435(a)(2) and 34 CFR § 668.17(b)

- A school whose official cohort default rate is greater than 40.0 percent for a fiscal year may have its eligibility to participate in all Title IV student financial assistance programs limited, suspended, or terminated (LS&T).[5]

Note The Department will relieve the school of a proposed LS&T action due to high cohort default rates if the school successfully appeals its cohort default rate and brings it below 40.1%. Because an LS&T action can be imposed on multiple grounds, however, a reduction in a school's cohort default rate does not preclude the Department from proceeding against the school for other causes.

What types of appeals may a school submit?

A school may have the right to appeal based on:

- erroneous data (see page 43),[6]
- improper loan servicing and collection (see page 71),[7]

AND/OR

- exceptional mitigating circumstances (see page 99).[8]

To verify whether your school is eligible to appeal, read the specific appeal sections beginning on page 33 or turn to the Appeal Eligibility worksheet on page 31.

Note Appeals on the basis of erroneous data and/or improper loan servicing and collection address information included when calculating a school's official cohort default rate; appeals on the basis of exceptional mitigating circumstances do not address the cohort default rate, but deal with specific circumstances that may allow a school to continue in the FFEL Program and/or Direct Loan Program.

The appeal sections and the request for adjustment section in this guide detail specific eligibility and submission requirements.

In addition, a school may submit a request for adjustment to its official cohort default rate if it challenged errors during the draft data review process AND the guaranty agency and/or Direct Loan servicer correctly agreed to make the changes BUT the changes are not reflected in the data used to calculate the official cohort default rate. See page 33 for further information on submitting a request for adjustment.

5. 34 CFR § 668.17(a)(2)
6. 34 CFR § 668.17(c)(1)(i)
7. 34 CFR § 668.17(h)
8. 34 CFR § 668.17(c)(1)(ii)

Cohort Default Rates

This section includes information about cohort default rates, sanctions associated with official cohort default rates, and the Loan Record Detail Report (formerly referred to as backup data).

What is a cohort default rate?

A cohort default rate is the percentage of a school's student borrowers who enter repayment on certain FFEL Program and/or Direct Loan Program loans during a particular fiscal year and default or meet other certain conditions before the end of the next fiscal year. The cohort default rate may be an FFEL Program cohort default rate, a Direct Loan Program cohort rate, or a dual-program cohort rate depending on the type or types of student loans that comprise the rate.

An FFEL Program cohort default rate[1] is the cohort default rate for schools whose students have **only** FFEL Program loans entering repayment during a particular fiscal year. It is the percentage of a school's students who enter repayment on certain FFEL Program loans during a particular fiscal year and default within the fiscal year in which the loans entered repayment or the next fiscal year.

A Direct Loan Program cohort rate[2] is the cohort rate for schools whose students have **only** Direct Loan Program loans entering repayment during a particular fiscal year. It is the percentage of a school's borrowers who enter repayment on certain Direct Loan Program loans during a particular fiscal year and default or meet other certain conditions within the fiscal year in which the loans entered repayment or the next fiscal year.

Other conditions: Direct Loan borrowers who attend a non-degree granting proprietary school whose scheduled payments under an ICR plan are less than the interest accruing on the loan are also considered as in default in the cohort rate if that student entered repayment and the ICR repayment condition has existed for at least 270 days within the cohort period in question.

1. 34 CFR § 668.17(d)
2. 34 CFR § 668.17(e)

This guide will use the term "cohort default rate" to refer to a school's FFEL Program cohort default rate, Direct Loan Program cohort rate, or dual-program cohort rate.

A school does not select whether it has an FFEL Program cohort default rate, a Direct Loan Program cohort rate, or a dual-program cohort rate. The rate is determined by the Department on the basis of the types of loans that enter repayment in a given cohort period.

Regulations use the term "weighted average cohort rate." This guide uses the term "dual-program cohort rate" to describe the same rate and calculation.

A dual-program cohort rate[3] is the cohort rate for schools whose student borrowers have **both** FFEL Program and Direct Loan Program loans entering repayment during a particular fiscal year. It is the percentage of a school's students who enter repayment on certain FFEL Program and Direct Loan Program loans during a particular fiscal year and default or meet other certain conditions within the fiscal year in which the loans entered repayment or the next fiscal year.

Other conditions: Direct Loan borrowers who attend a non-degree granting proprietary school whose scheduled payments under an ICR plan are less than the interest accruing on the loan are also considered as in default in the cohort rate if that student entered repayment and the ICR repayment condition has existed for at least 270 days within the cohort period in question.

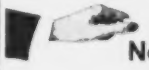
Why is the cohort default rate important?

The Department may take administrative actions against a school on the basis of its official cohort default rate(s). The different administrative actions associated with high cohort default rates and a school's appeal rights are discussed beginning on pages 17 and 29, respectively.

Which types of loans are included in the cohort default rate calculation?

The cohort default rate is calculated on the basis of FFEL Program and/or Direct Loan Program loans. The FFEL Program loans included in the calculation are subsidized and unsubsidized Federal Stafford Loans (FFEL/Stafford Loans) and Federal Supplemental Loans for Students (Federal SLS Loans). The Direct Loan Program loans included in the calculation are subsidized and unsubsidized Federal Direct Stafford Program Loans (DL/Stafford Loans.)

The following loans are NOT included in the cohort default rate calculation: Federal PLUS Loans, Federal Direct PLUS Loans, Federal Insured Student Loans, and Federal Perkins Loans.



Note Federal Consolidation Loans and Federal Direct Consolidation Loans are not counted directly in the cohort default rate calculation. However, the status of a consolidation loan may affect the treatment of the loan(s) that was paid off by the consolidation loan. A discussion of consolidation loans is on page 13.

3. 34 CFR § 668.17(f)

How does the Department calculate a school's cohort default rate?

The formula the Department uses for calculating a school's cohort default rate depends on the number of student borrowers from that school entering repayment in the particular fiscal year.

Calculation: For a school with **30 or more borrowers** entering repayment during FY 1996, the FY 1996 cohort default rate is calculated as follows:[4]

$$100 \times \frac{\text{the number of students who entered repayment in FY 1996 and who defaulted or met other certain conditions before the end of FY 1997 (Numerator)}}{\text{the number of students who entered repayment in FY 1996 (Denominator)}}$$

Note ***Other conditions:*** Direct Loan borrowers who attend a non-degree granting proprietary school whose scheduled payments under an ICR plan are less than the interest accruing on the loan are also considered in default in the cohort rate if that repayment condition has existed for at least 270 days.[5]

Example: School A certified 90 loans for 90 students that entered repayment in FY 1996 (denominator). Of those students, 8 defaulted prior to October 1, 1997 (numerator). School A's cohort default rate is calculated by dividing 8 by 90 and multiplying the result by 100 to produce a cohort default rate of 8.9%.

$$100 \times \frac{8}{90} = 8.9\%$$

4. 34 CFR § 668.17(d), (e), and (f)
5. 34 CFR § 668.17(e)(1)(ii)

If a school has fewer than 30 borrowers entering repayment, the Department calculates an average cohort default rate.

Calculation: For a school with **fewer than 30 borrowers** entering repayment during FY 1996, the FY 1996 cohort default rate is calculated as follows:[6]

$$100 \times \frac{\text{the number of students who entered repayment in FY 1994, FY 1995, and FY 1996 and who defaulted or met other certain conditions before the end of the fiscal year immediately following the fiscal year in which the loan entered repayment (Numerator)}}{\text{the number of students who entered repayment in FY 1994, FY 1995, and FY 1996 (Denominator)}}$$

Note **Other conditions:** Direct Loan borrowers who attend a non-degree granting proprietary school whose scheduled payments under an ICR plan are less than the interest accruing on the loan are also considered in default in the cohort rate if that repayment condition has existed for at least 270 days.[7]

Example: School B certified loans for the following students: 10 students that entered repayment in FY 1994, 20 students that entered repayment in FY 1995, and 29 students that entered repayment in FY 1996. 10+20+29=59 (denominator). Of those 59 students, 2 students entered repayment in FY 1994 and defaulted before the end of FY 1995; 6 students entered repayment in FY 1995 and defaulted before the end of FY 1996; and 4 students entered repayment in FY 1996 and defaulted before the end of FY 1997. 2+6+4=12 (numerator). School B's average cohort default rate is calculated by dividing 12 by 59 and multiplying the result by 100 to produce an average cohort default rate of 20.3%.

$$100 \times \frac{12}{59} = 20.3\%$$

6. 34 CFR § 668.17(d), (e), and (f)
7. 34 CFR § 668.17(e)(1)(ii)

What if my school has less than 30 borrowers entering repayment but does not have prior year cohort default rates?

Your school will receive an **unofficial** cohort default rate.

An unofficial cohort default rate is based on the actual percentage of borrowers entering repayment in a given fiscal year and defaulting in that fiscal year or the next fiscal year. A school only receives an unofficial cohort default rate if it has less than 30 borrowers entering repayment in a given fiscal year and the school does not have two prior years of cohort default rate data with which to average the current year data.

Note An unofficial cohort default rate does not have any consequences associated with it and it cannot be appealed UNLESS it is later used as a part of an average cohort default rate that results in sanctions being taken against a school.

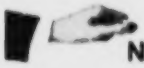
How does the Department determine which loans are placed in the denominator of the calculation?

Loans included in the denominator of the FY 1996 cohort default rate calculation are FFEL Program and Direct Loan Program loans that entered repayment in FY 1996.

For a list of special circumstances affecting the cohort default rate calculations, see page 14

Different loan types enter repayment under different rules.

FFEL Program Stafford Loans enter repayment on the day or month following six months of an uninterrupted grace period after a student drops below at least half-time enrollment.



Note The repayment date for FFEL Program Stafford Loans may be date-specific (for example, 5/16/96) or month-specific (for example, 5/96) if the loan was converted into repayment before March 1996. Beginning in March 1996, the date entered repayment is date-specific.

Direct Loan Program Stafford Loans enter repayment on the day following six months of an uninterrupted grace period after a student drops below at least half-time enrollment.

For any Federal SLS Loan that was not reported in a cohort period prior to FY 1993, the following definition applies:

- If a student has both a Federal SLS Loan and a Federal Stafford Loan that were both obtained in the same period of continuous enrollment, the date entered repayment for the Federal SLS Loan is the same as the date entered repayment for the Federal Stafford Loan.
- In all other instances, the date entered repayment for the Federal SLS Loan is the day following the day a student is no longer enrolled on at least a half-time basis.

Under the above guidelines, which were implemented beginning with the FY 1993 cohort default rates, a loan that was reported as having entered repayment prior to FY 1993 might also meet the criteria to be included in FY 1993 or later. To prevent the possibility of double-counting loans, any Federal SLS Loan that was reported in a cohort period prior to FY 1993 will not be reported again.

How does the Department determine which loans are placed in the numerator of the calculation?

For a list of special circumstances affecting the cohort default rate calculation, see page 14.

For FFEL Program loans, only defaulted loans are included in the numerator of the calculation. Under the HEA, a borrower is considered to be in default on the 181st day of delinquency. However, for **cohort default rate purposes**, a loan is considered to be in default only if the guaranty agency has paid a default claim on the loan to the lender. The date the guaranty agency reimburses the lender for the defaulted loan (the claim paid date or CPD) is used to determine if the loan will be placed in the numerator of the calculation.[8]

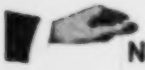
8. 34 CFR § 668.17(d)(1)(i)(C)

For Direct Loan Program loans, loans are included in the numerator of the cohort default rate calculation for all types of schools when students default.[9] A Direct Loan borrower is considered in default on the 181st day of delinquency. However, for **cohort default rate purposes**, a Direct Loan is considered to be in default on the 271st day of delinquency. Therefore, the 271st day of delinquency is used to determine if the loan will be placed in the numerator of the calculation. In addition, Direct Loans are included in the numerator of the cohort default rate calculation for proprietary non-degree-granting institutions if the borrowers entered repayment and have been under an income contingent repayment plan for 271 days with scheduled monthly payments of less than $15 that result in negative amortization within the cohort period in question.[10]

This table summarizes when a loan is included in the numerator of the cohort default rate calculation.

In the Numerator (for Cohort Default Rate Purposes)

	FFEL Program Loans	Direct Loan Program Loans
Proprietary Non-Degree-Granting Schools	Date the insurance claim is paid	271st day of delinquency OR 271st day of monthly payments on an ICR plan that are less than $15 resulting in negative amortization
Other Schools	Date the insurance claim is paid	271st day of delinquency



Note Please note, a loan is never included in the numerator of the cohort default rate calculation unless it is also included in the denominator of the cohort default rate calculation.

9. 34 CFR § 668.17(e)(3)
10. 34 CFR § 668.17(e)(1)(ii)

What are the time frames of a cohort period?

The following chart outlines the past five cohort periods and the loans included in the cohort default rate calculations.

Cohort Periods		
Cohort Period	**Loans Included in the Cohort Default Rate Calculation***	**Period of Time**
FY 1992	students who entered repayment on their loans in FY 1992 and defaulted in FY 1992 or FY 1993 / students who entered repayment on their loans in FY 1992	10-1-91 to 9-30-93 / 10-1-91 to 9-30-92
FY 1993	students who entered repayment on their loans in FY 1993 and defaulted in FY 1993 or FY 1994 / students who entered repayment on their loans in FY 1993	10-1-92 to 9-30-94 / 10-1-92 to 9-30-93
FY 1994	students who entered repayment on their loans in FY 1994 and defaulted in FY 1994 or FY 1995 / students who entered repayment on their loans in FY 1994	10-1-93 to 9-30-95 / 10-1-93 to 9-30-94
FY 1995	students who entered repayment on their loans in FY 1995 and defaulted in FY 1995 or FY 1996 / students who entered repayment on their loans in FY 1995	10-1-94 to 9-30-96 / 10-1-94 to 9-30-95
FY 1996	students who entered repayment on their loans in FY 1996 and defaulted in FY 1996 or FY 1997 / students who entered repayment on their loans in FY 1996	10-1-95 to 9-30-97 / 10-1-95 to 9-30-96

* For the FY 1995 and FY 1996 cohort periods, Direct Loan borrowers who attend a non-degree granting proprietary school whose scheduled payments under an ICR plan are less than the interest accruing on the loan are also considered in default in the cohort rate if that repayment condition has existed for at least 270 days within the cohort period in question.

What if a borrower had more than one loan entering repayment during the fiscal year?

If a borrower had more than one loan entering repayment in the same fiscal year, the borrower is counted ONLY once.

Example: Terry enrolled in a two-year program at the local community college and obtained two FFEL Program Stafford loans. Terry graduated in January 1996 and the loans entered repayment in July 1996. Terry failed to make any payments on any of the loans. Because a school's cohort default rate is calculated on the basis of an unduplicated borrower count, Terry is counted ONLY once in the numerator and denominator of the school's FY 1996 cohort default rate.

How does student loan consolidation affect a school's cohort default rate?

Loans that were repaid by a consolidation loan are counted in the applicable cohort default rates based on the date on which the underlying loans entered repayment. As a result, if a student defaults (or, for proprietary non-degree granting schools, makes payments on Direct Loans under the ICR Plan below certain amounts) on a consolidation loan during the cohort period in which any of the underlying loans entered repayment, those underlying loans are counted in default in the cohort default rate for the school where the underlying loan(s) was received.

Example: After graduating from cosmetology school, Chris had several loans enter repayment in FY 1996. Chris obtained a consolidation loan in FY 1997. Chris defaulted on the consolidation loan before the end of FY 1997. Because the consolidation loan defaulted within the same cohort period in which the underlying loans entered repayment, Chris is counted once in the numerator and once in the denominator of the FY 1996 cohort default rate.

Cohort default rates are calculated on the basis of an unduplicated borrower count. Therefore, if a borrower has more than one loan entering repayment in a cohort default rate calculation, that borrower will only be counted once in the cohort default rate calculation.

Q. If a student takes out loans while attending College A and immediately transfers to College B and takes out additional loans, how are these loans included in each school's cohort default rates?

A. The loans obtained for attendance at College A are included in College A's cohort default rate calculation and the loans obtained for attendance at College B are included in College B's cohort default rate calculation.

The Department frequently receives questions about additional special circumstances that may affect how a particular loan is considered in calculating a cohort default rate. The following table addresses many of these situations.

Special Circumstances Affecting How FY 1996 Cohort Default Rates are Calculated

Special Circumstances	Effect on the Numerator	Effect on the Denominator
Borrower defaulted on a loan in FY 1996 or FY 1997, but the loan was then discharged due to death, bankruptcy, and/or disability.[11]	Include in the numerator because the loan defaulted prior to death, bankruptcy, and/or disability.	Include in the denominator.
Prior to default claim payment, borrower's loan was discharged due to death, bankruptcy, and/or disability.	Do not include in the numerator because the loan did not default prior to death, bankruptcy, and/or disability.	Include in the denominator.
A payment is made on a loan by the school, its owner, agent, or another entity or individual affiliated with the school to avoid default by the borrower.[12]	Include in the numerator because the loan is treated as in default for cohort default rate purposes.	Include in the denominator.
Borrower defaulted but the loan was rehabilitated before the end of FY 1997.[13]	Do not include in the numerator because the loan is not considered in default.	Include in the denominator.

11. 34 CFR § 682.402 and 685.212
12. HEA 435(m)(2)(B)
13. HEA 435(m)(2)(C). A Direct Loan Program loan is rehabilitated if a borrower has made 12 consecutive on-time monthly payments before the end of the cohort period in which the borrower entered repayment. An FFEL Program loan is rehabilitated if a borrower has made 12 consecutive on-time monthly payments before the end of the cohort period in which the student entered repayment and the loan is sold to a lender.

Special Circumstances Affecting How FY 1996 Cohort Default Rates are Calculated (cont'd)

Special Circumstances	Effect on the Numerator	Effect on the Denominator
Borrower paid loan in full after defaulting on the loan during the cohort period in which the borrower entered repayment and the borrower did not successfully rehabilitate his/her loan.	Include in the numerator because the loan defaulted prior to the loan being paid in full and it was not rehabilitated during the relevant cohort period.	Include loan in the denominator in the fiscal year the loan entered repayment.
Borrower requested and was granted a repayment schedule that started before the date the student was originally scheduled to enter repayment.	Do not include in the numerator if the loan did not default.	Include loan in the denominator in the fiscal year that the new repayment schedule start date falls into.

Sanctions

What sanctions are associated with official cohort default rates?

The sanctions associated with official cohort default rates are:

- **initial loss of FFEL Program and/or Direct Loan Program eligibility**. This results from FY 1994, FY 1995, and FY 1996 official cohort default rates that are equal to or greater than 25.0 percent.[1]

  OR

- **extended loss of FFEL Program and/or Direct Loan Program eligibility**. This occurs when a school lost FFEL Program and/or Direct Loan Program eligibility prior to the release of the FY 1996 official cohort default rate due to three consecutive cohort default rates equal to or greater than 25.0 percent, AND all subsequent cohort default rates have been equal to or greater than 25.0 percent.[2]

  AND/OR

- **possible action to limit, suspend, or terminate (LS&T) eligibility to participate in all Title IV federal student financial assistance programs**. This occurs when a school's FY 1996 official cohort default rate is greater than 40.0 percent.[3]

What are the consequences associated with these sanctions?

- A school subject to **initial or extended loss of FFEL Program and/or Direct Loan Program eligibility** loses eligibility to participate in that program for the remainder of the fiscal year in which the school became subject to such a loss and for the two subsequent fiscal years.[4]

1. 34 CFR § 668.17(b)
2. Id.
3. 34 CFR § 668.17(a)(2)
4. 34 CFR § 668.17(b)(3)(i) and (b)(3)(ii)

- If a school is **subject to LS&T action**, the Department may initiate an action to limit, suspend, or terminate eligibility to participate in all Title IV federal student financial assistance programs.[5]

Can a school appeal the Department's intent to impose these sanctions?

Please see the appeals section beginning on page 29.

Yes, a school can appeal the Department's intent to terminate the school's eligibility to participate in the federally funded programs. The appeals may be based on erroneous data, improper loan servicing, and exceptional mitigating circumstances provided that your school meets the eligibility criteria as described in the appeals section of this Guide. Moreover, the appeal procedures described in the appeals section beginning on page 29 provide the only methods for a school to appeal the Department's determination of its cohort default rate. In other words, if your school fails to submit a timely cohort default rate appeal or submits an unsuccessful cohort default rate appeal, the Department's determination on your school's cohort default rates are final.

When does the school's loss of eligibility to participate in the FFEL Program and/or Direct Loan Program become effective?

A school that loses FFEL Program and/or Direct Loan Program eligibility may continue to disburse funds after notification of the loss of the school's eligibility if the students receiving the disbursements have already received initial disbursements of the funds prior to the school losing eligibility.

- A school's participation in the FFEL Program and/or Direct Loan Program ends 30 calendar days after the date the school receives notification that it is subject to the loss of eligibility.[6]

  OR

- If a school timely appeals its loss of eligibility to participate in the FFEL Program and/or Direct Loan Program, the school remains eligible to participate in the FFEL Program and/or Direct Loan Program until the Department issues a final decision on the school's appeal(s) that indicates that the school's appeal(s) was unsuccessful.[7]

5. 34 CFR § 668.17(a)(2)
6. 34 CFR § 668.17(b)(1), (b)(2), and (b)(3)
7. 34 CFR § 668.17(b)(6)

Loan Record Detail Report

What is a loan record detail report?

A Loan Record Detail Report, formerly referred to as backup data or BUD, is a report sent to schools by the Department containing information on FFEL Program and/or Direct Loan Program loans that were used to calculate a school's cohort default rate. The loan record detail report provides loan information about specific borrowers who entered repayment during a specified cohort period.

Which schools receive official loan record detail reports?

The Department sends loan record detail reports to postsecondary schools with official cohort default rates equal to or greater than 11.0 percent.

Note If your school would like to review its loan record detail report, but did not receive it, use the form on page 27 to request your school's loan record detail report. Your request must be submitted to the Department within **10 working days** of receiving your school's FY 1996 official cohort default rate notification letter.

Why should a school review its official loan record detail report?

A school should review its report to verify the data used to calculate its official cohort default rate. This rate is used to determine if the school may be subject to sanctions, so it is important that the school verify the accuracy of the data. If errors are found, a school may qualify to file a request for adjustment and/or an erroneous data appeal. The school's receipt of the official loan record detail report marks the start of strict, regulatory time frames during which the

school may seek adjustment of or appeal from its official cohort default rates. The school's failure to timely exercise any rights to appeal or request an adjustment will result in loss of those rights.

When determining if a school qualifies for a **request for adjustment**, the school should reconcile its records of its draft data review process challenges against the official loan record detail report to verify that:

- any changes a guaranty agency or Direct Loan servicer correctly agreed to make to the data as a result of the draft data review process are properly reflected in the school's FY 1996 official loan record detail report.

Please see page 33 for more information on the draft data review process.

When checking for **erroneous data**, a school should review its records and information from outside sources, including but not limited to lenders, students, guaranty agencies, the Direct Loan servicer, and other schools where former students are enrolled. The school should verify that:

- there is no incorrect data in the loan record detail report, such as:
  - students who are improperly included

    AND/OR
  - students who are improperly excluded.

If a school finds inaccurate data, then the school may qualify to submit a request for adjustment to its official cohort default rate and/or to file an erroneous data appeal. (See the request for adjustment section beginning on page 33 and/or the erroneous data appeal section beginning on page 43.)

How does the Department produce loan record detail reports?

The Department produces loan record detail reports using student loan information that has been electronically submitted to the Department's National Student Loan Data System (NSLDS) by guaranty agencies and the Direct Loan servicer.

Will a school's draft data and official data be the same?

Not necessarily. Because guaranty agencies and the Direct Loan servicer regularly update loan records electronically on the basis of loan information supplied by schools, lenders, and loan servicers, a school's *draft* data might differ from its *official* data.

Are the loan record detail reports subject to the Privacy Act?

Yes, the Privacy Act of 1974 and the Family Educational Rights and Privacy Act (FERPA) applies to all loan record detail reports mailed to schools, guaranty agencies, and the Direct Loan servicer, as these contain personally identifying information about students who received FFEL Program and/or Direct Loan Program loans. These and other loan materials are of a private nature. The use of this material is covered by the Privacy Act and may be governed by state and local laws and regulations. Recipients should take appropriate steps to safeguard this material, guarantee that it is used appropriately, and ensure that it is discarded properly.

How does a school read an official loan record detail report?

At the top of each page of the official loan record detail report you will find the title:

```
                U.S. DEPARTMENT OF EDUCATION
          NATIONAL STUDENT LOAN DATA SYSTEM (NSLDS)
COHORT YEAR 1996 OFFICIAL LOAN RECORD DETAIL REPORT (SCHOOL)
```

The first page of the report contains information about the school. This includes its name, address, Organization ID Number (which is the same as the school's OPE [Office of Postsecondary Education] ID number), and the rate calculation date (also called the run date).

See page 23 for a sample loan record detail report.

Following this information, there are two horizontal rows of student loan information, each set off by hashed lines. These rows contain column headers for the data contained in the report; each student loan has two rows of information.

Example: Find the column header SSN (Social Security number). It is located in the first column header row on the left side of the report. Students' Social Security numbers are listed in this column.

Individual student loan data are listed under the column headers. The data are sorted in numerical order by Social Security number.

Usage code 1 in the next to the last column of the loan record detail report identifies how a particular loan is used in the school's official cohort default rate calculation.

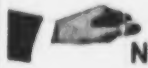
A school does not select whether it has an FFEL Program cohort default rate, a Direct Loan Program cohort rate, or a dual-program cohort rate. The rate is determined by the Department on the basis of the types of loans that enter repayment in a given cohort period.

Usage code 2, in the final column of the report, categorizes how the loan is counted in each individual loan program; this is summarized in the Individual Program Tally on the final page of the report. The Individual Program Tally is NOT a school's official cohort default rate—it is purely informational, to tell the school the number of loans identified with each loan program. There is a numerator and denominator count for both FFEL Program and Direct Loan Program borrowers if a school has loans entering repayment from each loan program.

On the final page of the report, for a **proprietary non-degree-granting school**, the "IC" field identifies the numerator and denominator count of all of the school's Direct Loan Program borrowers in the cohort period in question who have been under an income contingent repayment plan for 271 days with scheduled monthly payments of less than $15 that result in negative amortization. For purposes of the cohort rate calculation, the borrower is included in the numerator if the 271st day falls within the cohort period.

If the school is NOT a proprietary non-degree-granting school, OR if it does not have any student loans meeting these criteria, this field will be zero.

A sample of a loan record detail report is on the next two pages. These sample reports include explanations regarding the information contained in the report that relates to official cohort default rates. Information about these data elements is at the bottom of the pages.



Note The rate shown on the final page of the loan record detail report, labeled "Actual Default Rate," is a default rate calculated on the basis of one fiscal year of information. Refer to your school's notification letter for your school's **official** cohort default rate.

U.S. DEPARTMENT OF EDUCATION — RATE CALCULATION DATE: 09/26/1998
NATIONAL STUDENT LOAN DATA SYSTEM (NSLDS) — PAGE NO: 1
COHORT YEAR 1996 OFFICIAL LOAN RECORD DETAIL REPORT (SCHOOL)

Attention: JOHN DOE — Organization ID Number: 00111111
Name: STATE COLLEGE
Address: 1234 MAIN STREET
City: LEONARDTOWN — State: WI
Country: USA — Postal Code: 11111-1111 — Program Type: Both — Years: 1

SSN	Last name	First/M.I.	D.O.B.	Original School	CLASS Begin Date (6)	CLASS End Date (7)	Academic Level
0222-22-2222	SMITH	ALICE	10/21/1951	00111111	08/25/1994	05/11/1995	2

#	LENDER/SERVICER Originating	Current	Loan Type (1)	Stat (2)	Claim Rsn/ Code (3)	DEFAULT/ NegAm Date (4)	Repay Date (5)	Amount (8)	Guarantor/ Servicer (9)	Guaranty Loan/Date (10)	Enrollment Code (11)	Enrollment Stat/ Date (12)	Usage 1 (13)	Usage 2 (14)
	8000040000	8000040000	SL	DU	DF	02/20/1997	10/01/1995	$ 4,000	111	07/15/1994	G		B	FB
	0101	555	D2	DU		02/20/1997	10/01/1995	$ 2,380	0111	07/10/1994	G	01/01/1900	E	E

The following codes indicate the type of loan

FFEL Program	Direct Loan Program (FDLP)
SF - Federal Stafford Loan	D1 - FDLP Stafford Loan
SU - Federal Unsubsidized Stafford Loan	D2 - FDLP Unsubsidized Stafford Loan
SL - Federal SLS	D4 - FDLP PLUS Loan
CL - Federal Consolidation Loan	D5 - FDLP Unsubsidized Consolidation Loan
PL - Federal PLUS Loan	D6 - FDLP Subsidized Consolidation Loan
	D7 - FDLP PLUS Consolidation Loan

2. **Loan Stat** - The current status of the borrower's loan. See the chart on page 25 for a listing of loan status codes.

3. **Claim Rsn Code** - This field contains a code if an insurance claim was paid. See the chart on page 26 for a listing of claim reason codes.

4. **Default/NegAm Date** - The date the loan defaulted for cohort default rate purposes OR for proprietary non-degree-granting schools, the 271st day on an ICR plan with scheduled monthly payments of $15 or less which result in negative amortization. This date determines if a loan is in the numerator of the calculation.

5. **Repay Date** - The date the loan entered repayment. This date determines if a loan is in the denominator of the calculation.

6. **Begin Class Date** - The date classes were scheduled to start for the loan period covered by the loan.

7. **End Class Date** - The date classes were scheduled to end for the loan period covered by the loan.

8. **Amount** - The full amount of the loan.

9. **Guarantor/Servicer** - The code that identifies the guaranty agency or Direct Loan Servicer. These codes are provided in Appendix A (Guaranty Agency contact list) and Appendix B (Direct Loan Servicer contact list). Submit challenges to these organizations at the addresses provided.

10. **Guaranty Loan Date** - The date the guaranty agency insured the FFEL Program loan for the lender OR the first date of disbursement of the Direct Loan Program loan.

11. **Enrollment Code** - The following codes indicate the student's current enrollment status as reported through the SSCR, or other status updates.

A - Approved leave of absence	L - Less than half time
D - Deceased	N - Not available
F - Full time	W - Withdrawn
G - Graduated	X - Never attended
H - Half time or more, but less than full time	Z - No record found

12. **Enrollment Date** – Indicates the date the student's current enrollment status changed. If no data is available, the guaranty agency or Direct Loan servicer may use the date of 01/01/1900.

13. **Official Cohort Default Rate Usage** - Indicates how the loan was counted in the Official cohort default rate.

D - Denominator only	N - Not Used
B - Both Numerator and Denominator	E - Eligible, but not counted

14. **FFEL Program/Direct Loan Program Usage** - Indicates how the loan would be counted in the FFEL Program and/or Direct Loan Program cohort default rate. The codes include:

FFEL Program	Direct Loan (DL) Program
FD - FFEL Denominator	DD - DL Denominator
FB - FFEL Numerator and Denominator	DB - DL Numerator/Denominator
N - Not Used	IC - ICR (Negative Amortization only)
E - Eligible, but not counted	N - Not Used
	E - Eligible, but not counted

BEST COPY AVAILABLE

U.S. DEPARTMENT OF EDUCATION
NATIONAL STUDENT LOAN DATA SYSTEM (NSLDS)
COHORT YEAR 1996 OFFICIAL LOAN RECORD DETAIL REPORT (SCHOOL)

RATE CALCULATION DATE: 09/26/1998
PAGE NO: 5

Attention: JOHN DOE
Name: STATE COLLEGE
Address: 1214 MAIN STREET
City: LEONARDTOWN
State: WI
Country: USA
Postal Code: 11111-1111
Organization ID Number: 00111111
Program Type: Both
Years: 1

STUDENT

SSN | Last name | First/M I | D.O.B | Original School | CLASS Begin Date | CLASS End Date | Academic Level

0 LENDER/SERVICER Originating | LENDER/SERVICER Current | Loan Type | Loan Stat | Claim Rsn/ Code | DEFAULT/ NegAm Date | Repay Date | Amount | Guarantor/ Servicer | Guaranty Loan/Date | Enrollment Code | Enrollment Stat/ Date | Usage 1 | Usage 2

	FFEL	DIRECT	DUAL	
1 TOTAL DOLLARS IN DEFAULT	7,900	5,500	12,500	(Based on Outstanding Principal Balance)
2 TOTAL DOLLARS IN REPAYMENT	28,400	11,365	41,365	(Based on Outstanding Principal Balance)
3 TOTAL INSURANCE CLAIM PAYMENTS	6,000			
4 Actual Numerator Count	1			
5 Actual Denominator Count	5			
8 Actual Default Rate:	60.0			
9 Report Count	1 (B Usage 1 Codes only)			
10 Report Count	5 (D & B Usage 1 Codes)			
6 INDIVIDUAL PROGRAM TALLY: FFEL:	2/5	DIRECT:	2/4	
7 Appealed Rate flag:	N			
11 IC:	0 (Negative Amortization Only)			

End of Loan Record Detail Report

1. **Total dollars in default** - **FFEL Program and Direct Loan Program entries** indicate the total dollar volume for defaulted loans. **The Dual Program entry** represents an unduplicated borrower count of dollars in default.

2. **Total dollars in repayment** - **FFEL Program and Direct Loan Program entries** indicate the total dollar for loans that have entered repayment. **The Dual Program** entry represents an unduplicated borrower count of dollars in repayment.

3. **Total insurance claim payments** - Indicates the total amount of insurance claims paid.

4. **Actual Numerator Count** - The total number of unduplicated borrowers used in the numerator of the cohort default rate.

5. **Actual Denominator Count** - The total number of unduplicated borrowers in the denominator of the cohort default rate.

6. **Individual Program Tally** - The total number of unduplicated borrowers counted in the numerator and denominator of the FFEL Program and/or Direct Loan Programs.

7. **Appealed Rate Flag** - Indicates whether the cohort default rate has been changed due to an appeal.
D - Direct - school cohort default rate altered due to its own appeal.
I - Indirect - school cohort default rate altered due to an appeal filed by a different school in a combination/substitution/merger.
N - No Appeal - school cohort default rate not altered by an appeal.
U - Unknown - appeal status unknown for cohort default rate prior to FY 1993.

8. **Actual Default Rate** - **The FY 1996 cohort default rate.** It will not reflect the official cohort default rate if the school has less than 30 borrowers entering repayment or if the school is involved in a combination/substitution/merger. The rate shown on the final page of the loan record detail report, labeled "Actual Default Rate," is a default rate calculated on the basis of one fiscal year of information. Refer to your school's notification letter for your school's **official** cohort default rate.

9. **Report Count** - The numerator count reflected in the loan record detail report May differ from the **Actual Numerator Count** due to appeal adjustments or due to average rates. **This is not necessarily the count used in the Official cohort default rate.**

10. **Report Count** - The denominator count reflected in the loan record detail report May differ from the **Actual Denominator Count** due to appeal adjustments or average rates. **This is not necessarily the count used in the Official cohort default rate.**

11. **IC** - The number of unduplicated borrowers making scheduled monthly payments of less than $15.00 on an ICR plan and resulting in negative amortization effective the 271st day the circumstances persist. **This field only applies to proprietary non-degree-granting schools.**

Loan Status Codes	
CODE	STATUS
BC	Bankruptcy Claim, Discharged
BK	Bankruptcy Claim, Active
CA	Canceled
DA	Deferred
DB	Defaulted, then Bankrupt, Active, Chapter 13
DC	Defaulted, Compromise
DD	Defaulted, then Died
DE	Death
DI	Disability
DK	Defaulted, then Bankrupt, Discharged, Chapter 13
DL	Defaulted, in Litigation
DO	Defaulted, then Bankrupt, Active, Other
DP	Defaulted, Paid-In-Full
DS	Defaulted, then Disabled
DT	Defaulted, Collection Terminated
DU	Defaulted, Unresolved
DW	Defaulted, Write-Off
DX	Defaulted, Six Consecutive Payments
FB	Forbearance
ID	In School or Grace Period
OD	Defaulted, then Bankrupt, Discharged, Other
PC	Paid-In-Full through Consolidation
PF	Paid-In-Full
RF	Refinanced
RP	In Repayment
UI	Uninsured/Unreinsured

Claim Reason Codes	
CODE	STATUS
BC	FFEL Bankruptcy, Chapter 13
BO	FFEL Bankruptcy, Other
CS	FFEL Closed School
DC	FFEL Cured Default
DD	FFEL Death
DF	FFEL Default
DI	FFEL Disability
FC	FFEL False Certification
N	Direct Loan, Income Contingent Negative Amortization
IX	Direct Loan, Defaulted Income Contingent Negative Amortization (with the Department)

Request for LOAN RECORD DETAIL REPORT

Please TYPE or PRINT the following to ensure proper delivery.

OPE ID#: _____
School Name: _____
School Mailing Address: _____
_____
_____
Telephone number: (____) _____

Choose ONE format:

- ❑ Print Out (Hard Copy)
  OR
- ❑ 3.5" Diskette

Choose ONE loan record detail report:

- ❑ FY 1996 Official Cohort Default Rate
  OR
- ❑ FY 1994, FY 1995, and FY 1996 Official Cohort Default Rates

Note The loan record detail report can only be requested once. Please provide the signature, name, and title of the authorizing official making this request. Please note that your school must request the loan record detail report from the Department within **10 working days** of receiving its official cohort default rate notification letter. Please allow at least two weeks from the time the Department receives your school's request for your school to receive the loan record detail report.

Name of Official: _____
Title of Official: _____
Signature of Official: _____
Date: _____

If sent by **commercial overnight mail/courier delivery**, send your request for loan record detail report to:

U.S. Department of Education
Default Management Division
Attn: Request for Loan Record Detail Report
ROB-3, Room 3905
7th and D Streets, SW
Washington, DC 20202-5353

If sent by **U.S. Postal Service**, send your request for loan record detail report to:

U.S. Department of Education
Default Management Division
Attn: Request for Loan Record Detail Report
ROB-3, Room 3905
600 Independence Avenue, SW
Washington, DC 20202-5353

At-a-Glance Information

Appeal Tips

Eligibility

With one exception, to appeal your school's official cohort default rate, **your school must be subject to sanctions.**

The exception: A school with an FY 1996 official cohort default rate of 20.0 percent or greater may submit an appeal on the basis of improper loan servicing and collection.

Sanctions are specific restrictions on your school's participation in Title IV federal student financial assistance programs. See page 17 for a specific discussion on the types of sanctions that may occur based on your cohort default rate.

Basis of Appeal

There are three types of appeals:

- **erroneous data,**
- **improper loan servicing and collection, and**
- **exceptional mitigating circumstances.**

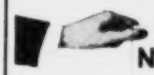
The appeal eligibility worksheet following these tips can help your school determine if it qualifies to submit any of these appeals. If your school is submitting an appeal, please thoroughly read the relevant appeal sections beginning on page 43.

Request for Adjustment

In addition to the three types of appeals noted above, a school may submit a request for adjustment. To submit a request for adjustment, your school does NOT have to be subject to sanctions. Rather, your school may submit a request for adjustment if, during the draft data review process, a guaranty agency or Direct Loan servicer correctly **agreed** to make a correction to your school's data BUT the correction does not appear in your school's *official* loan record detail report.

Timing

Timing is critical. If your school fails to meet established deadlines, the U.S. Department of Education (Department) will NOT review your school's appeal or request for adjustment.



Note When a number of days is given (for example, "within 10 working days"), it means the information must be SENT to the Department within the stated time period. If the submission due date falls on a weekend or a federal holiday, a school may send the information to the Department no later than the next federal business day.

Proof of Delivery

The Department will not accept any appeal correspondence by facsmile (fax) or e-mail.

The Department recommends that your school send all appeal correspondence return receipt requested or via commercial overnight mail/courier delivery. This will be useful to your school if it is asked to authenticate the timeliness of its appeal.

Copies to the Department

Whenever your school sends correspondence to a guaranty agency and/or Direct Loan servicer, it must simultaneously send a copy to the Department's Default Management Division at the address in Appendix C.

Withdrawing an Appeal

If your school decides to withdraw an appeal, it should notify the Department, in writing, and send a copy to the relevant guaranty agencies and/or Direct Loan servicer. Please see page 167 for information on withdrawing an appeal.

Final Decision

Appealing your school's official cohort default rate to the Department is the only administrative review available to your school. The Department's decision is final and no further administrative review is provided.

APPEAL ELIGIBILITY WORKSHEET

Please refer to your school's most recent official cohort default rate notification letter for your school's three most recent cohort default rates.

Official FY 1996 cohort default rate **below 20.0%** *(No Sanctions)*	Official FY 1996 cohort default rate **20.0% - 40.0%** *(No Sanctions)*	Official FY 1996, FY 1995, AND FY 1994 cohort default rates **25.0% or greater** *(Subject to Initial loss of FFEL/Direct Loan Program Eligibility)*	Official FY 1996 cohort default rate **25.0% or greater** AND school lost eligibility due to FY 1995, FY 1994, and FY 1993 cohort default rates *(Subject to Extended loss of FFEL/Direct Loan Program Eligibility)*	Official FY 1996 cohort default rate **40.1% or greater** and NOT subject to initial loss of FFEL/Direct Loan Program Eligibility *(LS&T Only)*
Your school can submit: • **FY 1996 Request for Adjustment**	Your school can submit: • **FY 1996 Request for Adjustment** • **FY 1996 Improper Loan Servicing Appeal**	Your school can submit: • **FY 1996 Request for Adjustment** • **FY 1996, FY 1995 and FY 1994 Erroneous Data Appeal**[1] • **FY 1996, FY 1995 and FY 1994 Improper Loan Servicing Appeal**[2] • **FY 1996 Exceptional Mitigating Circumstances Appeal**	Your school can submit: • **FY 1996 Request for Adjustment** • **FY 1996 Erroneous Data Appeal** • **FY 1996 Improper Loan Servicing Appeal** • **FY 1996 Exceptional Mitigating Circumstances Appeal**	Your school can submit: • **FY 1996 Request for Adjustment** • **FY 1996 Erroneous Data Appeal** • **FY 1996 Improper Loan Servicing Appeal** • **FY 1996 Exceptional Mitigating Circumstances Appeal**

[1] Provided that your school has not previously appealed these years based on erroneous data.
[2] Provided that your school has not previously appealed these years based on improper loan servicing.
If your school is submitting an appeal or request for adjustment, please thoroughly read the relevant sections in this Guide.

Request for Adjustment

QUALIFYING

Any school may request that the Department adjust its FY 1996 official cohort default rate if:

(1) it submitted a challenge of its draft cohort default rate data to a guaranty agency and/or Direct Loan servicer during the FY 1996 draft data review process,

AND

(2) the guaranty agency and/or Direct Loan servicer correctly agreed to make changes to the cohort default rate data during the draft data review process,

BUT

(3) the changes are not reflected in the school's FY 1996 official loan record detail report.

A school does NOT have to be subject to sanctions to request an adjustment

Note The *draft data review process* is the opportunity provided to schools to review and correct cohort default rate errors with the guaranty agencies and/or Direct Loan servicer before the *official* cohort default rates are calculated. Refer to the Department's *FY 1996 Draft Cohort Default Rate Review Guide* for additional information on this process.

Q. Can my school submit a request for adjustment because incorrect new data appeared in the official loan record detail report?

A. No, your school can only submit a request for adjustment if your school challenged draft data during the draft data review process and the guaranty agency and/or Direct Loan servicer agreed to make the changes but the changes were not reflected in the FY 1996 official loan record detail report. However, your school may be eligible to file an erroneous data appeal on the basis of incorrect new data. See page 43.

What is the purpose of a request for adjustment?

A request for adjustment assures that a school's cohort default rate calculation reflects changes that were **correctly** agreed to during the draft data review process.

Is a request for adjustment a type of erroneous data appeal?

No. A request for adjustment is not a type of erroneous data appeal. Erroneous data appeals concern disputed data or incorrect new data. See page 43 for more information on erroneous data appeals.

Does my school have to be subject to sanctions to request an adjustment?

A school does NOT have to be subject to sanctions to request an adjustment, but it must meet the three eligibility requirements described on the previous page.

Note A school may be eligible to submit both a request for adjustment and an erroneous data appeal. If a school is submitting both, the two have different deadlines and standards, and they MUST be submitted separately. See page 43 for more information on erroneous data appeals.

TIMING

All schools with an FY 1996 official cohort default rate of 11.0 percent or greater will receive the FY 1996 official loan record detail report with the FY 1996 official cohort default rate notification letter.

Important: At this point, schools have **10 working days** to act.

What are the time frames and procedures for submitting a request for adjustment?

Timing is critical. Within **10 working days** of receiving its official cohort default rate notification letter, your school must:

- request the loan record detail report from the Department if your school did **not** receive the loan record detail report with its official cohort default rate. (See request form on page 27.)

Within **10 working days** of receipt of the official loan record detail report, your school must:

- compare the guaranty agency and/or Direct Loan servicer response(s) from the draft data review process to its official loan record detail report,

AND

- if it discovers that a change a guaranty agency and/or Direct Loan servicer correctly agreed to make during the draft data review process was NOT made,

  THEN

- it may submit a request for adjustment to the Department.

Your school's request for adjustment to the Department must be sent within **10 working days** of receiving its official cohort default rate loan record detail report.

If your school does not meet this **10-working-day** deadline, the Department will NOT review the request for adjustment.

The Department tracks receipt of all notification letters and loan record detail reports.

SUBMITTING

How should my school submit a request for adjustment to the Department?

The Department recommends that your school submit a request for adjustment in a single, tabbed binder, and mail it return receipt requested or via commercial overnight mail/courier delivery.

The recommended tabs and materials are shown on the next page.

Q. May my school submit its request for adjustment with its erroneous data appeal and/or improper loan servicing appeal?

A. No. Your school's request for adjustment must be submitted separately and within **10 working days** of your school receiving its official loan record detail report.

Tab 1

The section behind Tab 1 contains:

- a letter on your school's letterhead with—
  - your school's OPE ID number;
  - a statement indicating that your school is submitting a request for adjustment;
  - the current fiscal year to which the request for adjustment applies;
  - the signature of your school's President/CEO/Owner, followed by a signature block providing the signer's name and job title;

    AND
  - a notation that a copy of the cover letter is being sent to the relevant guaranty agency and/or Direct Loan servicer.

  (See the sample letter for **FY 1996 Request for Adjustment** on page 39.)

Tab 2

The section behind Tab 2 contains:

- a list of all loans that qualify for an adjustment. (Use spreadsheet **FY 1996 Loans Requiring Adjustment** on page 41, or its equivalent.)

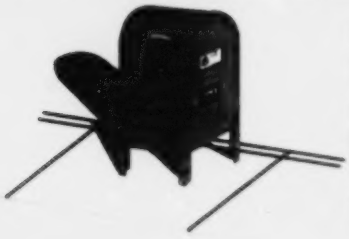
Tab 3

The section behind Tab 3 contains:

- a copy (or copies) of the original letter(s) and applicable attachments from the guaranty agency and/or Direct Loan servicer indicating that it agreed to make changes during the **draft data review process**.

A school does NOT need to submit its loan record detail report to the Department.

If sent by commercial overnight mail/courier delivery, send your school's request for adjustment to:



U.S. Department of Education
Default Management Division
ATTN: Request for Adjustment
ROB-3, Room 3905
7th and D Streets, SW
Washington, DC 20202

If sent by U.S. Postal Service, send your school's request for adjustment to:

U.S. Department of Education
Default Management Division
ATTN: Request for Adjustment
ROB-3, Room 3905
600 Independence Avenue, SW
Washington, DC 20202-5353

The Department will review only the relevant information submitted in the request for adjustment and will not consider information postmarked after the **10-working-day** deadline. The Department will send the school and each involved guaranty agency and/or Direct Loan servicer written notification of its decision. **The Department's decision is final and no further administrative review is provided.**

The Department will not accept any **appeal correspondence** by **facsimile (fax) or e-mail.**

The Department recommends sending all correspondence **return receipt requested** or via commercial overnight mail/courier delivery.

The Department accepts deliveries from commercial couriers **and/or hand deliveries** Monday through Friday, 8:00 a.m. to 4:30 p.m. (Eastern Time).

Our Town A&M University

1212 Bell Lane
Leonardtown, Wisconsin 12345-6789
(123) 456-7890

Sample Letter

November 6, 1998

U.S. Department of Education
Default Management Division
ATTN: Request for Adjustment
ROB-3, Room 3905
600 Independence Avenue, SW
Washington, DC 20202-5353

OPE ID#: [*insert OPE ID#]*

Subject: FY 1996 Request for Adjustment

To Whom It May Concern:

Our Town A&M University, **OPE ID#** [*insert OPE ID#]*, wishes to request an adjustment to its FY 1996 official cohort default rate.

Thank you for your consideration.

Sincerely,

John Doe
John Doe, President
Our Town A&M University

Enclosures

cc: Direct Loan Servicer
State Guaranty Agency

Request for Adjustment

How to fill out FY 1996 Loans Requiring Adjustment spreadsheet

On one spreadsheet, record all student loans for which your school is requesting an adjustment using a spreadsheet software application such as Lotus 1-2-3, Supercalc, or Excel. The resulting spreadsheet is sent only to the Department.

The spreadsheet width should be on one 8 1/2 x 11 page in a landscape (horizontal) layout. A sample spreadsheet follows these instructions.

Header: Enter **FY 1996 Loans Requiring Adjustment** in the center of the header area. In the left-hand area, enter your school's name and your school's OPE ID number.

Footer: Enter the date in the left side of the footer area. Set up automatic pagination in the right side of the footer area so that the specific page number and the total number of pages show on each page, for example: page 1 of 10 pages.

Sort: The borrowers listed on the spreadsheet should be sorted by:

1. **Guaranty agency/Direct Loan servicer code**
2. **Borrower's Social security number**

Note The Department will only review the allegations listed on the school's spreadsheet.

On Row 1, enter exactly the same column names in exactly the same order as listed on the sample spreadsheet.

On Row 2 and below, include the following data for each loan requiring adjustment.

Column 1: Enter the borrower's Social Security number (SSN) using hyphens to separate the numbers (example: 000-00-0000).

Column 2: Enter the borrower's name.

Column 3: Enter the loan type. Use FFEL/SF (Federal Family Education Loan/Stafford), DL/SF (Direct Loan/Stafford), or SLS (Supplemental Loans for Students) to identify the type of loan.

Column 4: Enter MM/DD/YYYY (month/day/year) to identify the date the data error was acknowledged by the guaranty agency or Direct Loan servicer during the draft data review process.

Column 5: Enter the number code of the guaranty agency (found in Appendix A) or Direct Loan servicer (found in Appendix B).

School Name
OPE ID Number

FY 1996
Loans Requiring Adjustment

Note: This is a sample spreadsheet.
(See instructions.)

1. Borrower's SSN	2. Borrower's name	3. Type of loan (FFEL/SF DL/SF or SLS)	4. Date error was acknowledged by the guaranty agency or Direct Loan Servicer during the draft data review process	5. Code for the guaranty agency or Direct Loan servicer (See Appendices A and B for codes)
000-66-0000	John J. Doe	FFEL/SF	5/27/1997	000

MM/DD/YYYY

[send to U.S. Department of Education]

Page __ of __ pages

Erroneous Data Appeal

QUALIFYING

If, due in part to your school's FY 1996 official cohort default rate, your school is subject to the loss of FFEL Program and/or Direct Loan Program eligibility or subject to possible action to limit, suspend, or terminate participation in all Title IV federal student financial assistance programs, it may file an erroneous data appeal[1] if:

- there are **disputed data** remaining from your school's challenges during the draft data review process

AND/OR

- there are **incorrect new data** appearing in your school's official loan record detail report.

Disputed data and incorrect new data are explained in detail beginning on page 46.

Note

The *draft data review process* is the opportunity provided to schools to review and correct cohort default rate errors with the guaranty agencies and/or Direct Loan servicer before the *official* cohort default rates are calculated. Refer to the Department's *FY 1996 Draft Cohort Default Rate Review Guide* for additional information on this process.

A school must be subject to sanctions to submit an appeal on the basis of erroneous data.

In order to appeal, a school must prove that the recalculated rate using the corrected data would, by itself or in conjunction with an improper loan servicing appeal, produce an official cohort default rate lower than the applicable sanction threshold.

What is an erroneous data appeal?

An erroneous data appeal is a challenge submitted to the Department alleging that a school's official cohort default rate is inaccurate because of incorrect data.[2]

1. HEA 435(a)(2)(A)(i) and 34 CFR § 668.17(c)(1)(i)
2. 34 CFR § 668.17(c)(1)(i)(A)

"Outside sources" that a school will want to review include, but are not limited to, records of lenders, students, guaranty agencies, the Direct Loan servicer, or other schools where former students enrolled.

What are erroneous data?

Erroneous data refers to various types of student loan information used to calculate your school's official cohort default rate that do not match your school's records and/or information from outside sources that your school believes are incorrect.

Examples of erroneous data would be if, in reconciling the official loan record detail report against its attendance records, your school discovers that:

- some students are not reported correctly in the official cohort default rate calculation

  AND/OR

- some students are omitted entirely from the calculation.

Erroneous data may be "disputed data" and/or "incorrect new data," both of which are discussed in detail beginning on page 46.

Is a request for adjustment a type of erroneous data appeal?

No, a request for adjustment is NOT an erroneous data appeal.

A request for adjustment concerns data that the guaranty agency and/or Direct Loan servicer agreed to change during the draft data review process but failed to do so. See page 33 for additional information on requests for adjustments.

Note A school might qualify to submit both an erroneous data appeal and a request for adjustment. If a school is submitting both, the two have different deadlines and standards, and **they must be submitted separately.**

Does my school have to be subject to sanctions to submit an erroneous data appeal?

Yes, only schools that are subject to sanctions may submit an erroneous data appeal. These sanctions are:

- **initial loss of FFEL Program and/or Direct Loan Program eligibility.**[3]

  OR

- **extended loss of FFEL Program and/or Direct Loan Program eligibility.**[4]

  AND/OR

- **possible action to limit, suspend, or terminate (LS&T) eligibility to participate in all Title IV federal student financial assistance programs.**[5]

Please see page 17 for additional information on sanctions.

Is my school eligible to file an erroneous data appeal?

Your school may file an erroneous data appeal if:

(1) it is subject to sanctions,

AND

(2) it believes that **disputed data** or **new data** used in calculating its cohort default rate are incorrect,

AND

(3) recalculating the rate using corrected data would produce an official cohort default rate lower than the applicable sanction threshold,

AND

(4) it has **not** previously appealed the official cohort default rate at issue on the basis of erroneous data[6].

The official cohort default rate may be reduced below the sanction threshold either by the results of an erroneous data appeal or by combining the results of an erroneous data appeal with the results of an improper loan servicing appeal.

A school may appeal a specific fiscal year cohort default rate only once based on erroneous data.

3. 34 CFR § 668.17(b)
4. Id.
5. 34 CFR § 668.17(a)(2)
6. 34 CFR § 668.17(i)

What are "disputed data" and "incorrect new data"?

Disputed data and/or incorrect new data are the two grounds on which sanctioned schools may appeal allegations of erroneous data.

Allegations of disputed data must be addressed to the relevant guaranty agency and/or Direct Loan servicer during the official cohort default rate appeal process. These allegations must be submitted to the guaranty agency and/or Direct Loan servicer within 10 working days of receiving your school's official cohort default rate.

- **Appealing disputed data from the draft data review process**—When your school challenges data during the draft data review process, a guaranty agency and/or Direct Loan servicer does not always agree that there is an error. After release of the official cohort default rate, your school may appeal on the basis of disputed data if:

  - your school challenged errors during the draft data review process

    AND

  - the guaranty agency and/or Direct Loan servicer did not agree with the errors your school alleged

    AND

  - your school believes that the guaranty agency and/or Direct Loan servicer draft data response to the errors your school alleged is incorrect

    AND

  - the alleged errors are included in the calculation of your school's official cohort default rate

    AND

  - your school is subject to sanctions.

- **Appealing on the basis of incorrect new data**—Because the National Student Loan Data System (NSLDS) is updated regularly with new information from several sources, your school's *official* loan record detail report may differ from the *draft* loan record detail report. Your school may appeal to the Department on the basis of incorrect new data if:

  - your school discovers that the information on its loan record detail report has changed since the draft data review process,

    AND

  - your school determines that the changes did not result from its draft data review process challenges,

    AND

  - your school believes the new information is incorrect

    AND

  - your school is subject to sanctions.

Note If the official data remain the same as the draft data, and your school did NOT challenge the draft data during the draft data review process, it may NOT now appeal the data.[7] If these data issues are appealed to the Department, they will NOT be reviewed.

The checklist on the next page summarizes the eligibility criteria for an erroneous data appeal. Review the checklist to determine your school's eligibility to appeal on the basis of erroneous data.

7. 34 CFR § 668.17(j)(7)

Erroneous Data Appeal Eligibility Checklist

To be eligible to appeal its official cohort default rate on the basis of erroneous data, your school must meet ALL of the following criteria:

- ❑ Your school is subject to sanctions—
  - ❍ initial FFEL Program/Direct Loan Program loss

    OR
  - ❍ extended FFEL Program/Direct Loan Program loss

    AND/OR
  - ❍ possible action to limit, suspend, or terminate (LS&T) eligibility to participate in all Title IV student financial assistance programs
- ❑ Your school believes that its official cohort default rate is inaccurate because of—
  - ❍ disputed data from the draft data review process

    AND/OR
  - ❍ incorrect new data
- ❑ Your school's appeal, if it is successful, results in a recalculation reducing its official cohort default rate below the sanction level. (Your school's appeal may be on the basis of erroneous data or on the basis of a combination of erroneous data AND improper loan servicing.)
- ❑ Your school has NOT previously appealed the official cohort default rate at issue on the basis of erroneous data

Disputed data and incorrect new data are explained beginning on page 46.

Which cohort default rates may my school appeal?

The sanctions your school is subject to determine which cohort default rates your school may appeal on the basis of erroneous data.

- If your school is subject to **initial loss of FFEL Program and/or Direct Loan Program eligibility**, it may appeal any or all of the three most recent official cohort default rates on which the loss of eligibility is based—as long as it has not previously appealed that fiscal year's official cohort default rate calculation on the basis of erroneous data. This year, your school may appeal its FY 1994, FY 1995, and FY 1996 cohort default rates.
- If your school is subject to **extended loss of FFEL Program and/or Direct Loan Program eligibility**, it may appeal only the most recent year's (FY 1996) official cohort default rate.
- If your school is subject to **possible action to LS&T its participation in all Title IV federal student financial assistance programs** due to its FY 1996 official cohort default rate, but it is not subject to initial loss of FFEL Program and/or Direct Loan Program participation, it may appeal only the FY 1996 cohort default rate.

Note If your school is NOT subject to sanctions, your school is not eligible to file an erroneous data appeal with the Department and, if filed, the Department will NOT review it. Your school may, however, be eligible to file a request for adjustment. (See page 33 for details.)

Q. If my school is appealing FY 1994, FY 1995, and FY 1996 official cohort default rates on the basis of erroneous data, should it mail three separate appeals to the Department?

A. No, all erroneous data appeals must be submitted to the Department in the same mailing.

Q. If my school is subject to both initial loss of FFEL Program/Direct Loan Program eligibility and LS&T, which official cohort default rates may my school appeal?

A. Your school may appeal its FY 1994, FY 1995, and FY 1996 official cohort default rates, as long as it has not previously appealed that year's official cohort default rate calculation on the basis of erroneous data.

The following table summarizes the official cohort default rates that your school may appeal on the basis of erroneous data.

Official Cohort Default Rates That May Be Appealed on the Basis of Erroneous Data

If your school is subject to...	Your school may...
No sanctions	NOT appeal
Initial FFEL/Direct Loan Program loss	appeal FY 1994,* FY 1995,* and FY 1996
Extended FFEL/Direct Loan Program loss	appeal FY 1996
LS&T only	appeal FY 1996

* Provided that your school has not previously appealed that year's cohort default rate on the basis of erroneous data.

How can a successful erroneous data appeal affect my school's official cohort default rate?

If, as the result of an erroneous data appeal, the Department determines that incorrect data were used in calculating your school's official cohort default rate, the Department will recalculate the rate using the corrected data. (The official cohort default rate calculation is explained on page 7.) This may lower, raise, or not affect your school's official cohort default rate.

How do adding and subtracting loans from the cohort default rate calculation affect my school's official cohort default rate?

Are there other loans for the same borrower that are CORRECTLY included in the CDR calculation?	If your school's erroneous data appeal results in...	then the following change to the cohort default rate results:
If the borrower has **no other loans** in the CDR calculation	adding a **defaulted** loan	+B
	adding a **non-defaulted** loan	+D
	subtracting a **defaulted** loan	- B
	subtracting a **non-defaulted loan**	- D
	changing a **defaulted loan** to a **non-defaulted loan**	- N
If the borrower already has **only non-defaulted loan(s)** in the CDR calculation (D)	adding a **defaulted** loan	+N
	adding a **non-defaulted** loan	no effect
	subtracting a **non-defaulted** loan	no effect
If the borrower already has **defaulted loan(s)** in the CDR calculation (B)	adding a **defaulted** loan	no effect
	adding a **non-defaulted** loan	no effect
	subtracting a **defaulted** loan	no effect
	subtracting a **non-defaulted** loan	no effect

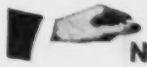
Key :

CDR	= Cohort Default Rate
N	= Numerator
D	= Denominator
B	= Both Numerator and Denominator

What role does a guaranty agency or Direct Loan servicer have in my school's erroneous data appeal to the Department?

A guaranty agency[8] and/or Direct Loan servicer is required to respond to your school's timely request for verification of error involving student loans that it guaranteed/serviced and that were included in your school's official cohort default rate calculation within **15 working days** of receiving your school's request.

If the guaranty agency and/or Direct Loan servicer doesn't respond within **15 working days**, advise the Department, in writing, of the delay.



Note A delayed response from a guaranty agency[9] or Direct Loan servicer does not jeopardize your school's appeal rights provided that your school timely requested the verification and that your school provided a copy of the request to the Department when it made the request.

In its response to your school's letter, the guaranty agency and/or Direct Loan servicer will address your school's allegations.

There are a number of reasons why a guaranty agency and/or Direct Loan servicer might not agree with your school's allegations of error. For example, your school might have:

- made only general allegations about the loan record detail report and/or the official cohort default rate calculation,
- failed to notify the guaranty agency and/or Direct Loan servicer of a student's change in status in a timely manner,
- failed to provide supporting documentation for an allegation,

  OR

- failed to send allegations of error to the guaranty agency and/or Direct Loan servicer within the **10-working-day time frame** required by regulations.

8. 34 CFR §682.401(b)(15)
9. 34 CFR §668.17(c)(8)

TIMING

What are the time frames and procedures for submitting an erroneous data appeal?

Timing is critical when appealing an official cohort default rate on the basis of erroneous data. The regulatory time frames are as follows:

- Within **10 working days** of receiving its official cohort default rate and official loan record detail report, your school must—
  - ❖ review the loan record detail report,
  - ❖ submit a request letter (see sample letter **FY [*insert year(s)*] Request for Verification of Error in Official Loan Record Detail Report** on page 64) to the respective guaranty agencies[10] and/or Direct Loan servicer,
  - ❖ Submit a list of alleged errors (use spreadsheet **FY [*insert year(s)*] Request for Verification of Error in Official Loan Record Detail Report** on page 67, or its equivalent), along with copies of the relevant pages of the loan record detail report and supporting documentation, to the respective guaranty agencies[11] and/or Direct Loan servicer, (See page 59 for instructions on submitting relevant pages from the loan record detail report to guaranty agencies and/or the Direct Loan servicer.)

    AND

  - ❖ **simultaneously** send the Department copies of the **Request for Verification of Error in Official Loan Record Detail Report** letter(s) and your school's list(s) of alleged errors.[12]
- A guaranty agency[13] and/or Direct Loan servicer has **15 working days** to respond to your school's allegations of error.

Important: At this point, schools have **10 working days to act.**

When submitting a request for verification of error to the guaranty agency and/or Direct Loan servicer, a school must **submit both disputed data and new data,** if the school believes the data is incorrect.

A school does NOT need to submit its loan record detail report or supporting documentation to the Department at this time.

10. 34 CFR § 668.17(c)(8)(i) and 34 CFR § 668.17(i)
11. 34 CFR § 668.17(c)(8)(i)
12. 34 CFR § 668.17(c)(8)(ii)
13. 34 CFR § 682.401(b)(15)

- If a guaranty agency and/or Direct Loan servicer takes more than **15 working days** to respond, the school's eligibility to appeal is not jeopardized.[14] The deadline for a school to submit its appeal to the Department is determined by the date the school receives its final response from all guaranty agencies and/or the Direct Loan servicer.

Important: At this point, schools have **5 working days** to act.

- Within **5 working days** of receiving the final guaranty agency and/or Direct Loan servicer response to alleged errors, your school must do **one** of the following:

  (1) **Notify the Department that your school has chosen not to appeal** (see page 167 on how to withdraw an appeal).

  OR

  (2) **Choose to submit its erroneous data appeal with its improper loan servicing appeal, provided that the improper loan servicing appeal was timely initiated.**[15]

  OR

  (3) **Send the Department your school's erroneous data appeal.**[16]

It is NOT the responsibility of a guaranty agency and/or Direct Loan Servicer to send a school's erroneous data appeal to the Department.

If your school is simultaneously submitting both an erroneous data appeal and an improper loan servicing appeal,[17] they are due by the later of:

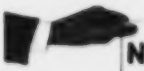
- within **5 working days** from receiving all responses to the school's list of alleged errors from all guaranty agencies and/or the Direct Loan servicer,

  OR

- within **30 calendar days** from receiving all responses to the school's request for loan servicing records from all guaranty agencies.

The Department tracks receipt of all guaranty agency and Direct Loan servicer responses.

14. 34 CFR § 668.17(c)(8)
15. 34 CFR § 668.17(h)(3)(iv)
16. 34 CFR § 668.17(c)(1)
17. 34 CFR § 668.17(h)(3)(iv)



Note If your school fails to meet any of these regulatory time frames, the Department will NOT review the appeal.

The Department will send the school and each involved guaranty agency and/or Direct Loan servicer written notification of its appeal decision. **The Department's decision is final and no further administrative review is provided.**

The chart on the following page summarizes the timeframes for schools to appeal based on allegations of erroneous data.

Erroneous Data Appeal Time Frames

When your school receives its official loan record detail report, it must:

send all allegations of error to the appropriate guaranty agencies/ Direct Loan servicer and copies of the allegations to the Department.

These must be sent within **10 working days.**

When a guaranty agency and/or Direct Loan servicer receives your school's request for verification of error...

The guaranty agency and/or Direct Loan servicer must respond within **15 working days.**

When your school receives all of the guaranty agencies/Direct Loan servicer responses to its requests for verification of error, it must:

(1) notify the Department that it has chosen to withdraw from the erroneous data appeal process

OR

(2) submit to the Department an erroneous data appeal.

This action must be taken within **5 working days.***

* If, however, your school is submitting erroneous data and improper loan servicing appeals simultaneously, the appeals must be submitted within the time frames outlined on page 54.

SUBMITTING

How do I prepare and submit an erroneous data appeal to the Department?

Step 1. **Review your school's official cohort default rate notification letter and this Guide to determine if your school is eligible to appeal based on allegations of erroneous data.**

Refer to the beginning of this section for a detailed discussion regarding which schools are eligible to appeal based on allegations of erroneous data.

Step 2. **Compare the official loan record detail report to the list of challenges your school submitted during the draft data review process.**

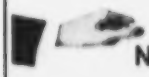
- Identify any **disputed data** remaining from the draft data review process. This is loan data that a guaranty agency or Direct Loan servicer did NOT agree to change during the draft data review process that your school still believes is incorrect.
- Identify any incorrect **new data** appearing in your school's official loan record detail report. When reviewing new data against your school's records and information from outside sources, you might wish to confirm:
  - accuracy of the last date of attendance;
  - accuracy of the date the loan entered repayment;
  - accuracy of the loan default date;
  - that there are no missing, duplicated, canceled, or discharged loans;
  - that there is no student whose loan entered repayment in the cohort year, according to your school's records and outside sources, who was omitted from the loan record detail report;

    AND

Please see page 47 for a definition on new data.

"Outside sources" that a school will want to review include, but are not limited to, records of lenders, students, guaranty agencies, the Direct Loan servicer, or other schools where former students enrolled.

- that the same student loan was not reported in two different cohort years.



These are some, but not all, errors that might be identified.

Step 3. Compile a list of alleged errors for each appropriate guaranty agency and/or Direct Loan servicer.

When submitting a request for verification of error to the guaranty agency and/or Direct Loan servicer, a school must submit both disputed data and new data, if the school believes the data is incorrect.

- Record all alleged errors using the spreadsheet **FY [*insert year(s)*] Request for Verification of Error in Official Loan Record Detail Report** (on page 67) or its equivalent. Complete a separate spreadsheet for each guaranty agency or Direct Loan servicer where your school alleges data errors.

Step 4. Initiate an erroneous data appeal.

Important: At this time, schools have **10 working days** to act.

(A) Within **10 working days**[18] of receiving your school's official loan record detail report, mail the following to the guaranty agencies and/or Direct Loan servicer:

For guaranty agency and/or Direct Loan servicer addresses, please see **Appendix A1** and **Appendix B.**

- A letter on your school's letterhead with—
  - your school's OPE ID number;
  - the fiscal year to which the request applies;
  - a statement indicating your school is requesting verification of error;
  - a signature by your school's President/CEO/ Owner, followed by a signature block providing the signer's name and job title;

    AND

  - a notation that a copy will be sent to the Department at the same time.

(See sample letter **FY [*insert year(s)*] Request for Verification of Error in Official Loan Record Detail Report** located on page 64.)

18. 34 CFR § 668.17(c)(8)(i)

- The spreadsheet completed in Step 3.
- A copy of relevant pages from the relevant loan record detail report.
  - Include the page of the loan record detail report where the borrower appears, or where the borrower should appear. Provide both pages of the loan record detail report if the borrower belongs at the end of one page or at the beginning of the next page.
  - If the borrower is being moved from one year to another, include the page of the loan record detail report where the borrower currently appears, and the page of the loan record detail report where the borrower should appear.
  - If the allegation is based on new data, your school should include the draft loan record detail report along with the official loan record detail report so that the guaranty agency and/or Direct Loan servicer can verify that the data is actually new data.
- Relevant supporting documentation.

AND

(B) ALSO within **10 working days**[19] of receiving your school's official loan record detail report, mail the following to the Department:

- A copy of every request for verification of error sent to a guaranty agency or Direct Loan servicer.

AND

- A copy of every completed spreadsheet sent to every guaranty agency and/or Direct Loan servicer.

Important: At this time, **schools have 10 working days** to act.

Your school does NOT need to **send loan record detail reports** or supporting documentation to the Department at this time.

19. 34 CFR § 668.17(c)(8)(ii)

Note If your school does not meet these **10-working-day** time frames, the guaranty agency and/or Direct Loan servicer will not review your allegations, and the Department will not review your list of alleged errors. This means your school will NOT be eligible to continue with the erroneous data appeal process.

Q. My school initiated erroneous data appeals with three guaranty agencies, but it only wants to appeal the responses of two guaranty agencies to the Department. How does my school do this?

A. Your school's appeal should include allegations of error that your school chooses to appeal -- in this case, the responses from two guaranty agencies -- in a single binder.

Step 5. Review the response from a guaranty agency and/or Direct Loan servicer and decide how to proceed.

- Review the responses from ALL guaranty agencies and/or the Direct Loan servicer. Decide if your school wants to:

  - ❖ withdraw from

    OR

  - ❖ continue with

  the erroneous data appeal process.

Important: At this time, schools have **5 working days** to act.

Step 6. Tell the Department whether your school is withdrawing from the appeal process or continuing with the appeal process.

- If your school wants to **withdraw** its erroneous data appeal, within **5 working days** of receiving ALL guaranty agency and/or Direct Loan servicer responses to your school's allegations of error, notify the Department that your school is withdrawing its erroneous data appeal. (See page 167 on how to withdraw an appeal.)

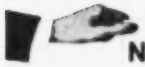
  OR

- If your school wants to **continue** with the erroneous data appeal process, within **5 working days** of receiving ALL guaranty agency and/or Direct Loan servicer responses:

- ❖ appeal disputed and incorrect new data from each of the relevant guaranty agencies and/or the Direct Loan servicer to the Department in an erroneous data appeal.[20] (See Step 7 for details.)

  OR

- ❖ choose to submit the erroneous data appeal with the loan servicing appeal.[21]



Note If your school is submitting both an erroneous data appeal and an improper loan servicing appeal, it may submit the two simultaneously based on time frames outlined on page 54.

Step 7. Submit the erroneous data appeal to the Department.

- ♦ The Department recommends that your school submit its properly completed erroneous data appeal relating to disputed and incorrect new data from each of the relevant guaranty agencies and/or the Direct Loan servicer for all relevant fiscal years to the Department in a single, tabbed binder, and mail it return receipt requested or via overnight courier delivery.

  The recommended tabs and materials are shown on the next page.

A properly completed erroneous data appeal submitted to the Department must include ALL allegations of error a school is appealing for ALL guaranty agencies and/or the Direct Loan servicer for ALL fiscal years.

20. 34 CFR § 668.17(c)(1)
21. 34 CFR § 668.17(h)(3)(iv)

The section behind Tab 1 contains: **Tab 1**

- A letter on your school's letterhead with—
  - your school's OPE ID number;
  - a statement indicating that your school is submitting an erroneous data appeal;
  - the fiscal year(s) to which the appeal applies;
  - a certification sentence that indicates that the information provided in the appeal, under penalty of perjury, is true and correct. See 34 CFR Section 668.17(c)(6).
  - a signature by your school's President/CEO/Owner, followed by a signature block providing the signer's name and job title;

    AND

  - a notation that a copy of the appeal letter will be sent to the relevant guaranty agency (or agencies) and/or Direct Loan servicer.

(See sample letter **Appeal on FY [*insert year(s)*] Allegations of Erroneous Data in Official Loan Record Detail Report**, on page 65.)

Schools only need to send a copy of the cover letter of the appeal to the relevant guaranty agencies and/or Direct Loan servicer at this time. It is not necessary to send the entire appeal to the guaranty agency or Direct Loan servicer.

The section behind Tab 2 contains: **Tab 2**

- copies of all relevant correspondence, including:
  - (1) the guaranty agency's and/or Direct Loan servicer's response(s) to your school's list of alleged data errors in the *official* cohort default rate

    AND/OR

  - (2) the guaranty agency's and/or Direct Loan servicer's response(s) to your school's list of alleged errors in the *draft* data. (This is not required when all allegations of error are based on incorrect new data.)

The section behind Tab 3 contains: **Tab 3**

- a list of your school's alleged data errors in the *official* cohort default rate relating to ALL relevant guaranty agencies and/or Direct Loan servicer for ALL relevant fiscal years.

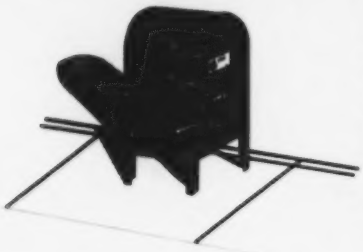
(Use spreadsheet **FY [*insert year(s)*] Appeal on Allegations of Erroneous Data in Official Loan Record Detail Report**, on page 69, or its equivalent.)

Schools do NOT need to submit copies of their loan record detail reports to the Department.

The section behind Tab 4 contains: **Tab 4**

- documentation to support your school's list of alleged errors.

If sent by commercial overnight mail/courier delivery, send your school's erroneous data appeal to:



U.S. Department of Education
Default Management Division
ATTN: Erroneous Data Appeals
ROB-3, Room 3905
7th and D Streets, SW
Washington, DC 20202

If sent by U.S. Postal Service, send your school's erroneous data appeal to:

U.S. Department of Education
Default Management Division
ATTN: Erroneous Data Appeals
ROB-3, Room 3905
600 Independence Avenue, SW
Washington, DC 20202-5353

The Department will review only the information submitted in the erroneous data appeal and will not consider information submitted after the regulatory deadlines. The Department will send the school and each involved guaranty agency and/or Direct Loan servicer written notification of its decision. **The Department's decision is final and no further administrative review is provided.**

The Department will not accept any appeal correspondence by facsimile (fax) or e-mail.

The Department recommends sending all correspondence return receipt requested or via commercial overnight mail courier delivery.

The Department accepts deliveries from commercial couriers and/or hand deliveries Monday through Friday, 8:00 a.m. to 4:30 p.m. (Eastern Time).

Our Town A&M University

1212 Bell Lane
Leonardtown, Wisconsin 12345-6789
(123) 456-7890

Sample Letter

November 6, 1998

State Guaranty Agency
ATTN: Compliance Officer
1010 Maple Lane, Suite 200
Woodston, Michigan 98765-4321

OPE ID#: [*insert OPE ID#*]

Subject: FY [*insert year(s)*] Request for Verification of Error in Official Loan Record Detail Report

To Whom It May Concern:

Our Town A&M University, **OPE ID # [*insert OPE ID#*]**, is requesting verification of the attached errors in its official loan record detail report for FY [*insert year(s)*].

Sincerely,

John Doe

John Doe, President
Our Town A&M University

Enclosure

cc: U.S. Department of Education

Our Town A&M University

1212 Bell Lane
Leonardtown, Wisconsin 12345-6789
(123) 456-7890

Sample Letter

December 5, 1998

U.S. Department of Education
Default Management Division
ATTN: Erroneous Data Appeals
ROB-3, Room 3905
600 Independence Avenue, SW
Washington, DC 20202-5353

OPE ID#: [*insert OPE ID#*]

Subject: Appeal on FY [*insert year(s)*] Allegations of Erroneous Data in Official Loan Record Detail Report

To Whom It May Concern:

Our Town A&M University, **OPE ID #** [*insert OPE ID#*], is submitting the attached appeal based on allegations of erroneous data in its FY [*insert year(s)*] official cohort default rate(s).

I, the undersigned, certify under penalty of perjury, that all information submitted in support of the erroneous data appeal is true and correct.

Sincerely,

John Doe

John Doe, President
Our Town A&M University

Enclosures

cc: State Guaranty Agency
Direct Loan Servicer

Gathering Information for an Erroneous Data Appeal

How to fill out FY [*insert year(s)*] Request for Verification of Error in Official Loan Record Detail Report spreadsheet

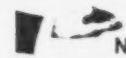
Record all loans being challenged with the relevant guaranty agency or Direct Loan servicer using a spreadsheet software application such as Lotus 1-2-3, Supercalc, or Excel. The resulting spreadsheet is sent to the relevant guaranty agency and/or Direct Loan servicer.

Fill out a separate spreadsheet for each guaranty agency or Direct Loan servicer.

The spreadsheet width should be on one 8 1/2 x 11 page in a landscape (horizontal) layout. A sample spreadsheet follows these instructions.

Header: Enter **FY [*insert year(s)*] Request for Verification of Error in Official Loan Record Detail Report** in the center of the header area. In the left-hand area, enter your school's name, your school's OPE ID number, and the guaranty agency or Direct Loan servicer name.

Footer: Enter the date the appeal was prepared in the left side of the footer area. Set up automatic pagination in the right side of the footer area so that the specific page number and the total number of pages show on each page (example: page 1 of 10 pages).



The guaranty agency/Direct Loan Servicer will only review the allegations listed on the school's spreadsheet to the guaranty agency/Direct Loan servicer.

On Row 1, enter exactly the same column names in exactly the same order as listed on the sample spreadsheet.

On Row 2 and below, include the following data for each alleged error.

Column 1: Enter the borrower's Social Security number (SSN) using hyphens to separate the numbers (example: 000-88-0000). If more than one SSN is listed, sort by numerical order when ready to print the spreadsheet.

Column 2: Enter the borrower's name.

Column 3: Enter Disputed (Disputed Data) or New (New Data) to identify if errors are alleged on the basis of unresolved data from the draft data review process or incorrect new data.

Column 4: Enter the loan type. Use FFEL/SF (Federal Family Education Loan/Stafford), DL/SF (Direct Loan/ Stafford), or SLS (Supplemental Loans for Students) to identify the type of loan.

Column 5: Use X to identify whether an SLS repayment date needs to be linked to an FFEL/Stafford repayment date. If linkage is not applicable, leave blank.

Column 6: Enter MM/DD/YYYY (month, day, and year) to identify the BCD (beginning class date) of the loan period.

Column 7: Enter MM/DD/YYYY to identify the ECD (ending class date) of the loan period.

Column 8: Enter MM/DD/YYYY to identify the LGD (loan guaranty date).

Column 9: Enter the earlier date of the borrower's LDA (last day of attendance) or the LTH (less than half time) date according to your school's records and outside sources.

Column 10: Enter MM/DD/YYYY or MM/YYYY to identify the DER (date the loan entered repayment) according to your school's records and outside sources.

Column 11: Enter MM/DD/YYYY or MM/YYYY to identify the CPD (claim paid date), DD (default date), or ICRD (Income Contingent Repayment date) according to your school's records and outside sources. Enter N/A if the student did not default.

Column 12: Enter the fiscal year(s) to which your school would like to see this information applied.

Column 13: Enter N (numerator), D (denominator), or B (both numerator and denominator), accompanied by a plus or minus sign (such as +D or -D) to show how your school believes the information will affect its official CDR (cohort default rate) calculation.

School Name
OPE ID Number
Guaranty Agency or Direct Loan servicer Name

FY [*insert year(s)*]
Request for Verification of Error in Official Loan Record Detail Report

1. Borrower's SSN (sort in numerical order)	2. Borrower's name	3. Basis of alleged error (Disputed or New)	4. Type of loan (FFEL/SF DL/SF or SLS)	5. Link SLS to FFEL/SF (X or leave blank)	6. Beginning class date (BCD) (MM/DD/YYYY)	7. Ending class date (ECD) (MM/DD/YYYY)	8. Loan guaranty date (LGD) (MM/DD/YYYY)	9. Earlier of LDA or LTH (MM/DD/YYYY)	10. Date entered repayment (DER) (MM/DD/YYYY or MM/YYYY)	11. CPD, DD, ICRD, or N/A (MM/DD/YYYY or MM/YYYY)	12. FY(s) appl.	13. Effect on CDR calc. (N, D, or B)
000-88-0000	John J. Doe	Disputed	FFEL/SF		9/1/1995	12/12/1995	9/1/1995	9/2/1995	3/2/1996	N/A	FY 1995 FY 1996	-D +D

Appealing Erroneous Data

How to fill out FY [*insert year(s)*] Appeal on Allegations of Erroneous Data in Official Loan Record Detail Report spreadsheet

Record all loans being appealed to the U.S. Department of Education (the Department) using a spreadsheet software application such as Lotus 1-2-3, Supercalc, or Excel. The resulting spreadsheet is sent to the Department.

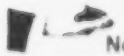
The spreadsheet width should be on one 8 1/2 x 11 page in a landscape (horizontal) layout. A sample spreadsheet follows these instructions.

Header: Enter **FY [*insert year(s)*] Appeal on Allegations of Erroneous Data in Official Loan Record Detail Report** in the center of the header area. In the left-hand area, enter your school's name and your school's OPE ID number.

Footer: Enter the date the appeal was prepared in the left side of the footer area. Set up automatic pagination in the right side of the footer area so that the specific page number and the total number of pages show on each page (example: page 1 of 10 pages).

Sort: The borrowers listed on the spreadsheet should be sorted by:

1. **Guaranty agency and/or Direct Loan servicer code**
2. **Borrower's social security number**



The Department will only review the allegations listed on the school's spreadsheet to the Department.

On Row 1, enter exactly the same column names in exactly the same order as listed on the sample spreadsheet.

On Row 2 and below, include the following data for each loan where there is an alleged error.

Remember input dates based on <u>your school's records</u>. Do <u>NOT</u> include dates based on the loan record detail report or guaranty agency and/or Direct Loan servicer information if you believe those dates are incorrect.

Column 1: Enter the borrower's Social Security number (SSN) using hyphens to separate the numbers (example: 000-88-0000).

Column 2: Enter the borrower's name.

Column 3: Enter Disputed (Disputed Data) or New (New Data) to identify if errors are alleged on the basis of unresolved data from the draft data review process or incorrect new data.

Column 4: Enter the loan type. Use FFEL/SF (Federal Family Education Loan/Stafford), DL/SF (Direct Loan/Stafford), or SLS (Supplemental Loans for Students) to identify the type of loan.

Column 5: Use X to identify whether an SLS repayment date needs to be linked to an FFEL/SF repayment date. If linkage is not applicable, leave blank.

Column 6: Enter MM/DD/YYYY (month, day, and year) to identify the BCD (beginning class date) of the loan period.

Column 7: Enter MM/DD/YYYY to identify the ECD (ending class date) of the loan period.

Column 8: Enter MM/DD/YYYY to identify the LGD (loan guaranty date).

Column 9: Enter the earlier date of the borrower's LDA (last day of attendance) or the LTH (less than half time) date according to your school's records and outside sources.

Column 10: Enter MM/DD/YYYY or MM/YYYY to identify the DER (date the loan entered repayment) according to your school's records and outside sources.

Column 11: Enter the MM/DD/YYYY or MM/YYYY to identify the CPD (claim paid date), DD (default date), or ICRD (Income Contingent Repayment date) according to your school's records and outside sources. Enter N/A if the student did not default.

Column 12: Enter the fiscal year(s) to which your school would like to see this information applied.

Column 13: Enter N (numerator), D (denominator), or B (both numerator and denominator), accompanied by a plus or minus sign (such as +D or -D) to show how your school believes the information will affect its official CDR (cohort default rate) calculation.

Column 14: Enter the guaranty agency and/or Direct Loan servicer code. This code can be found in Appendices A and B.

School Name
OPE ID Number

FY [*insert year(s)*]
Appeal on Allegations of Erroneous Data in Official Loan Record Detail Report

Note: This is a sample spreadsheet. (See instructions.)

1. Borrower's SSN	2. Borrower's name	3. Basis of alleged error (Disputed or New)	4. Type of loan (FFEL/SF DL/SF or SLS)	5. Link SLS to FFEL/SF (X or leave blank)	6. Beginning class date (BCD) (MM/DD/YYYY)	7. Ending class date (ECD) (MM/DD/YYYY)	8. Loan guaranty date (LGD) (MM/DD/YYYY)	9. Earlier of LDA or LTH (MM/DD/YYYY)	10. Date entered repayment (DER) (MM/DD/YYYY or MM/YYYY)	11. CPD, DD, ICRD, or N/A (MM/DD/YYYY or MM/YYYY)	12. FY(s) appl.	13. Effect on CDR calc. (N, D, or B)	14. GA and/or Direct Loan number
000-88-0000	John J. Doe	Disputed	FFEL/SF		9/1/1995	12/12/1995	9/1/1995	9/2/1995	3/2/1996	N/A	FY 1995 FY 1996	-D +D	111

MM/DD/YYYY 77

[send to U.S. Department of Education]

78 Page __ of __ pages

Improper Loan Servicing and Collection Appeal

QUALIFYING

If your school's FY 1996 official cohort default rate is equal to or greater than 20.0 percent AND it believes that one or more defaulted FFEL Program loans included in its official cohort default rate calculation did not receive loan servicing activities specified in 34 CFR § 668.17(h), your school may be eligible to file an appeal alleging improper loan servicing and collection.[1]

A school does NOT have to be subject to sanctions to submit an appeal on the basis of improper loan servicing, but your school's official cohort default rate must be at least 20.0 percent.

Note As this publication goes to press, an improper loan servicing appeal may NOT be filed based on William D. Ford Direct Loan Program loans (Direct Loans). However, the Department is considering a process that would allow improper loan servicing and collection appeals based on Direct Loans. If the process is implemented prior to the release of the FY 1996 official cohort default rates, the Default Management Division will provide guidance and instructions to schools on how to appeal Direct Loans based on improper loan servicing and collection.

What is an improper loan servicing and collection appeal?

An improper loan servicing and collection appeal is a challenge submitted to the Department alleging that a school's official cohort default rate includes loans on which the borrower did not make a payment and the lender failed to perform loan collection activities, specified in 34 CFR § 668.17(h).

1. HEA Section 435(a)(3) and 34 CFR § 668.17(h)(1)

The shortened term "improper loan servicing" is often used to refer to "improper loan servicing and collection" for the remainder of this section and throughout this guide.

When is a defaulted FFEL Program loan considered improperly serviced for cohort default rate purposes?

A defaulted FFEL Program loan is considered to have been due to improper loan servicing[2] if:

- the borrower never made a payment

  AND

- the school can document that the lender **failed to perform one or more** of the following activities:

  - send at least one letter (other than the final demand letter) urging the borrower or endorser to make payments on the loan (if the lender was required to send such letters);
  - attempt at least one telephone call to the borrower or endorser (if such attempts were required);
  - submit a request for pre-claims assistance to the guaranty agency (if such a request was required);
  - send a final demand letter to the borrower (if required);

    AND/OR

  - submit a certification (or other evidence) that skip tracing was performed (if required).

Note ONLY allegations regarding the above information will be accepted as the basis of an improper loan servicing appeal.

2. 34 CFR § 668.17(h)(3)(viii)

Example 1: The following is an example of a **properly serviced loan**.

The loan servicing record for Sarah Watson's (SSN# 055-00-0000) Stafford loan indicates that a collection letter regarding the Stafford loan was mailed to Sarah by the lender on November 11, 1996. In addition, the lender attempted to contact Sarah by telephone on January 14, 1997. Finally, the loan servicing record indicates that a pre-claims assistance request was sent by the lender to the guaranty agency on April 15, 1997 and a final demand letter was mailed to Sarah on July 15, 1997. This loan is considered **properly serviced** because the required elements identified in 34 C.F.R. Section 668.17(h)(3)(viii) were conducted and the record did not show any evidence that the borrower's address was incorrect.

This account should **NOT** be included in your school's appeal based on allegations of improper loan servicing.

Example 2: The following is an example of an **improperly serviced loan**.

The loan servicing record for Jonas Doe's (SSN # 444-44-4444) SLS loan shows that a collection letter regarding the SLS loan was mailed to Jonas by the lender on December 8, 1996. In addition, the loan servicing record indicates that the lender attempted to contact Jonas by telephone on January 6, 1997 and a pre-claims assistance request was sent by the lender to the guaranty agency on May 16, 1997. There is no evidence in the loan servicing record that the lender sent a final demand letter to Jonas, that Jonas made a payment on the loan, or that the lender received any information that the borrower's address was incorrect. Therefore, this loan is considered **improperly serviced** because all of the required elements identified in 34 C.F.R. Section 668.17(h)(3)(viii) were not conducted.

This account **should** be included in your school's appeal based on allegations of improper loan servicing.

For cohort default rate purposes, a properly serviced FFEL Program loan is one where the borrower made a payment, all four elements are met, or the lender certified that skip tracing was performed (if required). **Do NOT include properly serviced loans in your appeal to the Department.**

Example 3: The following is an example of a borrower with **multiple loans**.

Susie Smith (SSN # 888-88-8888) has multiple student loans in the FY 1996 cohort rate. The loan record detail report and the loan servicing records show that Susie had two subsidized Stafford loans that defaulted and one unsubsidized Stafford loan that defaulted. The lender/guaranty agency serviced the two subsidized loans together. The loan servicing records for the subsidized loans indicate that collection letters and phone call attempts were made by the lender. In addition, the lender requested pre-claims assistance from the guaranty agency and sent a final demand letter to the borrower. These loans are considered **properly serviced** and should **NOT** be included in your school's loan servicing appeal based on allegations of improper loan servicing.

The unsubsidized Stafford was serviced separately from the subsidized Stafford loans, with different dates for the phone calls, letters, and request for pre-claims assistance from the lender to the guaranty agency. However, there is no evidence in the loan servicing record that a final demand letter date was sent regarding the unsubsidized Stafford loan. In addition, there is no evidence that a payment was made on the loan or that the lender received any information that the borrower's address was incorrect. Therefore, this loan is considered **improperly serviced.**

Your school should only submit the unsubsidized Stafford loan as part of its appeal based on allegations of improper loan servicing.

What is involved in skip tracing?

Skip tracing is required when the lender receives information indicating that the borrower's address of record is incorrect.

The lender must either:

- certify that skip tracing was performed

OR

- perform at least one of the following—
  - attempt to contact the endorser,
  - attempt to contact the borrower's relatives,
  - attempt to contact the borrower's references,
  - attempt to contact the borrower, endorser, or references using telephone directory assistance,
  - attempt to contact any individual and any entities in the borrower's loan file,

  OR

  - perform any other normal skip tracing activity.

Note

Skip tracing is NOT required if:

1) the lender receives information regarding an incorrect address after 151 days of the borrower becoming delinquent
   OR
2) the lender does not have a record of the borrower's correct telephone number.

Example 4: The following is an example of a loan requiring **skip tracing**.

The loan servicing record for Ralph Bosco (SSN # 111-11-1111) shows that numerous letters were mailed to Ralph, and all the letters were returned with no forwarding address. The lender was unable to contact Ralph by telephone and all calls to the references listed on Ralph's loan application and to Ralph's school did not yield a new or forwarding address for Ralph. The lender's calls to directory assistance, the motor vehicle department, and the credit bureau were not successful in finding a current address for Ralph. A final demand letter was not sent to Ralph, because an updated address could not be obtained. In addition, Ralph did not make any payments on his loan. However, because the lender conducted at least one skip tracing activity on this account, it is considered a **properly serviced** loan.

This account should **NOT** be included in the school's loan servicing appeal based on allegations of improper loan servicing.

Does my school have to be subject to sanctions to submit an improper loan servicing appeal?

No, your school does not have to be subject to sanctions; however, it **must** have an FY 1996 official cohort default rate that is equal to or greater than 20.0 percent.[3]

Is my school eligible to file an improper loan servicing appeal?

A school may file an improper loan servicing appeal if it can demonstrate that there was improper loan servicing as defined in 34 CFR § 668.17(h) for any of the loans included in the cohort default rate calculation AND its FY 1996 official cohort default rate is equal to or greater than 20.0 percent.

This checklist summarizes the criteria for an improper loan servicing appeal. Review the checklist to determine if your school can appeal on the basis of improper loan servicing and collection.

Improper Loan Servicing Appeal Eligibility Checklist

To be eligible to appeal its official cohort default rate on the basis of improper loan servicing, your school must meet ALL of the following criteria:

- ❑ your school's official cohort default rate is equal to or greater than 20.0 percent

  AND

- ❑ after reviewing loan servicing records from guaranty agencies, your school believes that defaults on certain FFEL Program loans were due to improper loan servicing as described in 34 CFR § 668.17(h)(3)(viii)

  AND

- ❑ your school has NOT previously appealed the official cohort default rate at issue on the basis of improper loan servicing.

3. 34 CFR § 668.17(h)(1)

Which cohort default rates may my school appeal?

The sanctions your school is subject to determine which cohort default rates your school may appeal on the basis of improper loan servicing.

- If your school is **NOT subject to sanctions**, but has an FY 1996 official cohort default rate equal to or greater than 20.0 percent, it may ONLY appeal its FY 1996 official cohort default rate on the grounds that improperly serviced loans were used in the calculation.
- If your school is subject to **initial loss of FFEL Program and/or Direct Loan Program eligibility**, it may appeal any or all of the three most recent official cohort default rates on which the loss would be based—as long as your school has not previously challenged that fiscal year's official cohort default rate on the basis of improper loan servicing. This year your school may appeal its FY 1994, FY 1995, and/or FY 1996 official cohort default rates.
- If your school is subject to **extended loss of FFEL Program and/or Direct Loan Program eligibility**, it may appeal ONLY the most recent year's (FY 1996's) official cohort default rate.
- If your school is subject to **possible action to LS&T its eligibility to participate in all Title IV federal student financial assistance programs** due to its FY 1996 official cohort default rate, but it is NOT subject to initial loss of FFEL Program and/or Direct Loan Program participation, it may appeal ONLY the FY 1996 official cohort default rate.

Please see page 17 for additional information on sanctions.

A school may appeal a specific fiscal year cohort default rate only once on the basis of improper loan servicing.

The table below summarizes the official cohort default rates that your school may appeal on the basis of improper loan servicing.

Official Cohort Default Rates That May Be Appealed on the Basis of Improper Loan Servicing	
If your school is subject to ...	**Your school may...**
No sanctions and has an FY 1996 official cohort default rate below 20.0 percent	NOT appeal
No sanctions but has an FY 1996 official cohort default rate equal to or above 20.0 percent	appeal FY 1996
Initial FFEL/Direct Loan Program loss	appeal FY 1994,* FY 1995,* and FY 1996
Extended FFEL/Direct Loan Program loss	appeal FY 1996
LS&T only	appeal FY 1996

* Provided that your school has not previously appealed the cohort default rate on the basis of improper loan servicing.

If your school received a representative sample of loan servicing records and the Department determines that some of the loans included in the sample were improperly serviced, the Department will extrapolate the results of the review over the entire population of defaulted accounts included in the cohort default rate calculation for the relevant guaranty agencies.

How can a successful improper loan servicing appeal affect my school's official cohort default rate?

If, as a result of an improper loan servicing appeal, the Department determines that a loan (or loans) should be removed from your school's official cohort default rate calculation, the Department removes the improperly serviced loan (or loans) **from the numerator and the denominator** of your school's official cohort default rate calculation and recalculates the rate using the corrected data. Doing so generally lowers your school's official cohort default rate. (The official cohort default rate calculation is explained on page 7.)

What role does a guaranty agency have in my school's improper loan servicing appeal to the Department?

At your school's request, a guaranty agency must provide a representative sample of loan servicing records on defaulted student loans that it guaranteed and that were included in your school's applicable cohort default rate.[4]

Your school can expect to receive a response to its request for loan servicing records according to the time frames that follow.

If a guaranty agency's response is late, notify the Department, in writing, of the delay.

A delayed response from a guaranty agency does NOT jeopardize your school's appeal, provided your school timely requested the sample and notified the Department.

TIMING

What are the time frames and procedures for initiating an improper loan servicing appeal?

Timing is critical when appealing an official cohort default rate on the basis of improper loan servicing. Department regulations establish the following time frames:

- Within **10 working days**[5] of receiving its official cohort default rate and official loan record detail report, your school must—
  - ❖ review your official cohort default rate notification letter,

    AND

  - ❖ submit a request for loan servicing records (see sample letter **Request for FY *[insert year(s)]* Representative Sample of Loan Servicing Records**, on page 94) to the relevant guaranty agency (or agencies),

    AND

  - ❖ submit copies of the relevant loan record detail report(s) to the relevant guaranty agency (or agencies),

    AND

  - ❖ **simultaneously** send the Department copies of the request letters sent to the relevant guaranty agency (or agencies).

Important: At this point, schools have **10 working days** to act.

The representative sample is randomly selected by the guaranty agency from the relevant loan record detail report; a school can not select specific borrower records.

4. 34 CFR § 668.17(h)(3)(iii)
5. 34 CFR § 668.17(h)(3)(ii)

Note If your school fails to submit the loan record detail report to a guaranty agency along with its request for loan servicing records, it may lose its right to appeal to the Department on the basis of improper loan servicing.

Time frames when **guaranty agencies charge a fee.**

- A guaranty agency may charge a reasonable fee for copying and providing the documents, not to exceed $10 per borrower file[6].

If a guaranty agency **charges** a fee for loan servicing records, the appeal time frames are the same for schools subject to sanctions and for non-sanctioned schools.

  - Within **15 working days** of receiving your school's request for loan servicing records, a guaranty agency must randomly select the requested representative sample of defaulted student loans from those listed in the school's loan record detail report and bill the school for the records.[7]

    THEN

Important: **At this point, schools have 15 working days** to act.

  - Within **15 working days** of receiving a guaranty agency's request for payment, your school must submit full payment to the guaranty agency for the requested loan servicing records.[8]

    THEN

  - Within **15 working days** of receiving full payment from your school for the loan servicing records, the guaranty agency must provide your school with the requested loan servicing records.

Note A guaranty agency that charges a fee for providing copies of loan servicing records MUST receive full payment from your school within the required time frame. If not, your school loses its right to challenge that guaranty agency's loan servicing records. The guaranty agency then notifies both your school and the Department, in writing, that your school has lost its right to appeal student loans guaranteed by that guaranty agency on the basis of improper loan servicing.[9]

6. 34 CFR § 668.17(h)(3)(iii)(D)
7. 34 CFR § 668.17(h)(3)(iii)(F)
8. Id.
9. Id.

If the guaranty agency does not charge a processing fee, the time frames are as follows—

- Within **15 working days** of receiving your school's request for loan servicing records, a guaranty agency must provide a school **subject to initial or extended loss of FFEL Program and/or Direct Loan Program eligibility** with a representative sample of loan servicing records.[10]
- Within **30 calendar days** of receiving your school's request for loan servicing records, a guaranty agency must provide a school **NOT subject to initial or extended loss of FFEL Program and/or Direct Loan Program eligibility** with a representative sample of loan servicing records.[11]

Time frames when guaranty agencies **do NOT charge a fee**.

If your school is **only** subject to LS&T of Title IV federal student **financial assistance** programs, **the guaranty agency has 30 calendar days** to provide your school with loan servicing records if the guaranty agency does not charge a fee.

What are the time frames and procedures when there are missing and/or illegible records in the sample of loan servicing records provided by the guaranty agency?

ALL schools, regardless of whether a guaranty agency charges for loan servicing records, should—

- within **5 working days** of receiving loan servicing records from a guaranty agency, request from the guaranty agency any loan servicing records identified as being part of the representative sample that were not provided in the actual sample or any loan servicing records required to be provided that were illegible as provided.

  AND

- within **5 working days** simultaneously send a copy of this request to the Department.

Important: At this point, schools have **5 working days to act**.

To determine if any of the selected loan servicing records are missing, a school receiving a **representative sample** of loan servicing records should cross reference, within 5 **working days of receipt of the** loan servicing records, the records provided by the guaranty agency with the list of borrowers included in the sample as identified by the guaranty agency.

To determine if any of the selected **loan servicing records** are missing, a school receiving a **total population** of defaulted loans from a guaranty agency should cross reference, within 5 working days of receipt of the loan servicing records, the records provided by the guaranty agency with the guaranty agency's defaulted borrowers listed on the loan record detail report.

10. 34 CFR § 668.17(h)(3)(iii)
11. Id.

Q: What if the guaranty agency and/or Direct Loan servicer responds that it cannot provide the records that your school identified as missing or illegible?

A: Your school should submit its loan servicing appeal to the Department within the required time frames and indicate that some records are missing and/or illegible. Your school should also include a copy of the guaranty agency and/or Direct Loan servicer's written response that it cannot provide the records.

Note A loan servicing record is not considered missing or illegible if all the necessary elements noted in 34 C. F. R. Section 668.17(h)(3)(viii) can be identified. Nor is a loan servicing record considered missing or illegible if collection history documents are present and legible. Therefore, a school may only request additional documentation from the guaranty agency if the loan servicing record in question does not have the necessary material present to determine if the elements specified in 34 C. F. R. Section 668.17(h)(3)(viii) were present.

A guaranty agency has:

- **5 working days** to provide your school with missing records and/or readable photocopies

AND

- **5 working days** to simultaneously send a copy of this response to the Department.

What are the time frames and procedures when a guaranty agency indicates that the requested loan servicing records cannot be provided because the records are held by the Department?

If a school receives notification from the guaranty agency that the requested loan servicing records are currently held by the Department, the school has **5 working days** from receipt of the guaranty agency's letter to submit the request for these records to the Department. The school should submit this request to the following address:

U.S. Department of Education
Attn: Cohort Default Rate Processing
Mail Stop 4145
6201 Interstate Highway 30
Greenville, Texas 75402-7419

and simultaneously send a copy to the Department's Default Management Division at the address provided in Appendix C.

What are the time frames and procedures when a school receives ALL loan servicing records from the last guaranty agency?

- Within **30 calendar days** of receiving ALL loan servicing records from ALL guaranty agencies, including those records that were missing or illegible, which were timely requested, your school must do one of the following:

  - **Notify the Department that your school has chosen not to appeal** (see page 167 on how to withdraw an appeal).

  OR

  - **Choose to submit its improper loan servicing appeal with its erroneous data appeal, provided that the erroneous data appeal was timely initiated.**[12]

  OR

  - **Send the Department your school's improper loan servicing appeal.**[13]

Important: At this point, schools have **30 calendar days** to act.

The Department tracks receipt of all guaranty agency responses.

If your school is simultaneously submitting both an improper loan servicing and erroneous data appeal, they are due by the later of:

- within **30 calendar days** from receiving the final response to the school's request for loan servicing records from the final guaranty agency (or guaranty agencies)
- within **5 working days** from receiving the final response to the school's list of alleged erroneous data from the final guaranty agency (or agencies) and/or the Direct Loan Servicer.

Note If a school fails to meet ANY of these regulatory time frames, the Department will not review the appeal.

The Department will send the school and each involved guaranty agency written notification of its final decision on the school's appeal. **The Department's decision is final and no further administrative review is provided.**

12. 34 CFR § 668.17(h)(3)(iv)
13. Id.

The tables that follow summarize the time frames a guaranty agency has to respond to your school when:

- it charges a fee to schools,
- it does NOT charge a fee to schools subject to loss of FFEL and/or Direct Loan Program eligibility,

  OR

- it does NOT charge a fee to schools not subject to the loss of FFEL and/or Direct Loan Program eligibility.

The first table, on the next page, summarizes the time frames for a guaranty agency that **charges a fee** to schools.

Improper Loan Servicing Appeal Time Frames When a Fee is Required

When your school receives its official loan record detail report, it must:

request a representative sample of loan servicing records from guaranty agencies and send copies of the request letters to the Department.

Requests must be made within **10 working days**

After receiving your school's request, a guaranty agency should send...

the school a list of randomly selected borrowers who will be in the representative sample or the total population of defaulted borrowers guaranteed by the agency and a request for full payment for the loan servicing records.

This must be sent within **15 working days**

When your school receives a request for payment from a guaranty agency, it must:

send full payment to the guaranty agency

This must be done within **15 working days**

After receiving your school's timely payment, a guaranty agency sends...

the school a representative sample or the total population of loan servicing records of defaulted borrowers guaranteed by the agency.

This must be done within **15 working days**

When your school receives the guaranty agency's response to its request for loan servicing records, it must:

(1) notify the Department that it has chosen to withdraw its improper loan servicing appeal

OR

(2) submit to the Department an improper loan servicing appeal.

This must be done within **30 calendar days***

* If, however, your school is submitting erroneous data and improper loan servicing appeals simultaneously, the appeals must be submitted within the time frames outlined on page 83.

If there are missing and/or illegible records, your school has **5 working days** to request replacement records from the relevant guaranty agencies upon receipt of the original records from the guaranty agency. Please see the note on page 82 for clarification on missing and illegible records.

Upon receipt of the school's request, a guaranty agency has **5 working days** to provide the missing records and/or readable copies.

The following table summarizes the time frames for schools **subject to the loss of FFEL and/or Direct Loan Program eligibility** when a guaranty agency does **NOT charge a processing fee**.

Improper Loan Servicing Appeal Time Frames When There is NO Processing Fee for Schools Subject to the Loss of FFEL and/or Direct Loan Program Eligibility

When your school receives its official loan record detail report, it must:

request a representative sample of loan servicing records from guaranty agencies and simultaneously send copies of the request letters to the Department.

Requests must be made within **10 working days**

On receiving your school's request for loan servicing records...

The guaranty agency must provide a representative sample of loan servicing records or the records for the total population of defaulted borrowers guaranteed by the agency within **15 working days**

If there are missing and/or illegible records, your school has **5 working days** to request replacement records from the relevant guaranty agencies upon receipt of the original records from the guaranty agency. Please see the note on page 82 for clarification on missing and illegible records.

Upon receipt of the school's request, a guaranty agency has **5 working days** to provide the missing records and/or readable copies.

When your school receives the guaranty agency's response to its request for loan servicing records, it must:

(1) notify the Department that it has chosen to withdraw from the improper loan servicing appeal process
OR
(2) submit to the Department an improper loan servicing appeal

This must be done within **30 calendar days***

* If, however, your school is submitting erroneous data and improper loan servicing appeals simultaneously, the appeals must be submitted within the time frames outlined on page 83.

The following table summarizes the time frames for those schools **not subject to the loss of FFEL and/or Direct Loan Program eligibility** when a guaranty agency does **NOT charge a processing fee**.

Improper Loan Servicing Appeal Time Frames When There is NO Processing Fee for Schools **Not** Subject to the Loss of FFEL and/or Direct Loan Program Eligibility

When your school receives its official loan record detail report, it must:

request a representative sample of loan servicing records from guaranty agencies and simultaneously send copies of the request letters to the Department.

Requests must be made within **10 working days**

On receiving your school's request for loan servicing records...

The guaranty agency must provide a representative sample of loan servicing records or the records for the total population of defaulted borrowers guaranteed by the agency within **30 calendar days**

When your school receives the guaranty agency's response to its request for a representative sample of loan servicing records, it must:

(1) notify the Department that it has chosen to withdraw from the loan servicing appeal process
OR
(2) submit to the Department an improper loan servicing appeal.

This must done within **30 calendar days***

If there are missing and/or illegible records, your school has **5 working days** to request replacement records from the relevant guaranty agencies upon receipt of the original records from the guaranty agency. Please see the note on page 82 for clarification on missing and illegible records.

Upon receipt of the school's request, a guaranty agency has **5 working days** to provide the missing records and/or readable copies.

* If, however, your school is submitting erroneous data and improper loan servicing appeals simultaneously, the appeals must be submitted within the time frames outlined on page 83.

SUBMITTING

How do I prepare and submit an improper loan servicing appeal to the Department?

Step 1. Review your school's official cohort default rate notification letter and this Guide to determine if your school is eligible to appeal based upon allegations of improper loan servicing and collection.

For guaranty agency addresses, please see page 3 of Appendix A1.

Important: At this point, schools have 10 working days to act.

Step 2. Initiate an improper loan servicing appeal.[14]

(A) Within **10 working days** of receiving your school's official loan record detail report, mail the following to each relevant guaranty agency:

- A letter on your school's letterhead with—
  - your school's OPE ID number;
  - a statement requesting loan servicing records;
  - the fiscal year cohort default rate to which the request applies;
  - a signature by your school's President/CEO/ Owner, followed by a signature block providing the signer's name and job title;

    AND

  - a notation that a copy will be sent to the Department.

  (See sample letter **Request for FY *[insert year(s)]* Representative Sample of Loan Servicing Records** on page 94.)

- A copy of the relevant loan record detail report(s).

14. 34 CFR § 668.17(h)(3)(ii)

AND

(B) ALSO within **10 working days** of receiving your school's official loan record detail report, mail the following to the Department:

- A copy of each request for loan servicing records sent to a guaranty agency.

Important: At this point, schools have **10 working days** to act.

Your school does NOT need to send a copy of its loan record detail report to the Department.

Note If your school does not meet this **10-working-day** time frame, the guaranty agency will not respond to your request, and the Department will not review your improper loan servicing appeal. This means your school will NOT be eligible to continue with the improper loan servicing appeal process.

Step 3. If required, send processing fees to a guaranty agency.[15]

- A guaranty agency may charge a processing fee of up to $10 for each defaulted loan servicing record provided to a school. If a guaranty agency charges for providing loan servicing records, it notifies the school, in writing, about the required processing fee. A guaranty agency is not required to provide the records until full payment is received.

Time frames when guaranty agencies **charge a fee.**

- A school must pay the required processing fees to a guaranty agency within **15 working days** of the date it receives written notice of fees.

Important: At this point, schools have **15 working days** to act.

Note If your school does not meet this **15-working-day** time frame, the guaranty agency will not respond to your request, and the Department will not review your school's improper loan servicing appeal related to that guaranty agency. This means your school will NOT be able to continue with the improper loan servicing appeal with that guaranty agency.

Step 4. Review the loan servicing records from the guaranty agency and decide how to proceed.

- If the **school** finds that a record identified in the representative sample is missing or illegible and the

Important: At this point, schools have **5 working days** to act.

15. 34 CFR § 668.17(h)(3)(iii)(F)

school wishes to review the record, it must request the missing or illegible record from the guaranty agency within **5 working days** of receiving the loan servicing records.

- A **guaranty agency** has **5 working days** to send the missing records and/or readable copies of the records to your school.

Your school's appeal is NOT jeopardized if it receives a late reply from a guaranty agency.

Note A loan servicing record is not considered missing or illegible if all the necessary elements noted in 34 C. F. R. Section 668.17(h)(3)(viii) can be identified. Nor is a loan servicing record considered missing or illegible if collection history documents are present and legible. Therefore, a school may only request additional documentation from the guaranty agency if the loan servicing record in question does not have the necessary material present to determine if the elements specified in 34 C. F. R. Section 668.17(h)(3)(viii) were present.

- Within **30 calendar days** of receiving ALL loan servicing records from ALL guaranty agencies including all responses by the guaranty agencies to all timely requests for missing or illegible records:

  - ❖ review and determine if any of your school's loans did not receive loan servicing activities specified in 34 CFR § 668.17(h)

    AND

  - ❖ decide if your school wants to withdraw from OR continue with the improper loan servicing appeal process. (See Step 5 for details.)

If your school does not identify any errors, your school should withdraw its appeal.

Step 5: Tell the Department whether your school is withdrawing from the appeal process or continuing with the appeal process.

- If your school wants to **withdraw** from the improper loan servicing appeal process, within **30 calendar days** of receiving ALL relevant guaranty agency responses to your school's request for loan servicing records, notify the Department that your school is withdrawing its improper loan servicing appeal. (See page 167 on how to withdraw an appeal.)

Important: At this point, schools have **30 calendar days** to act.

OR

- If your school wants to **continue** with the improper loan servicing appeal process, within **30 calendar days** of receiving ALL relevant guaranty agency responses, submit a loan servicing appeal to the Department. Your school should include ALL records provided by all guaranty agencies in which your school **alleges loan servicing errors** to the Department. (See sample letter **Appeal on FY *[insert year(s)]* Allegations of Improper Loan Servicing and Collection**, located on page 95.) (See Step 6 for details.)

Note If your school is submitting both an improper loan servicing appeal and an erroneous data appeal, it may submit the two simultaneously based on the later of the two time frames. See page 83 for the time frames for submitting appeals simultaneously.

Step 6. Submit the improper loan servicing appeal to the Department.

- The Department recommends that your school submit its completed loan servicing appeal to the Department in a single, tabbed report binder, and mail it return receipt requested or via commercial overnight mail/courier delivery.

  The recommended tabs and materials are shown on the next page.

Tab 1

The section behind Tab 1 contains:

- A letter on your school's letterhead with—
  - your school's OPE ID number;
  - a statement indicating that your school is submitting an improper loan servicing appeal;
  - the fiscal year(s) to which the appeal applies;
  - a certification sentence that indicates that the information provided in the appeal, under penalty of perjury, is true and correct. See 34 CFR § 668.17(h)(3)(iv)(F);
  - a signature by your school's President/CEO/Owner, followed by a signature block providing the signer's name and job title;

    AND
  - a notation that a copy of the appeal letter will be sent to the relevant guaranty agency (or agencies).

(See sample letter **Appeal on FY *[insert year(s)]* Allegations of Improper Loan Servicing and Collection**, on page 95.)

Schools do NOT need to send copies of the loan servicing records to the guaranty agency(s) with the copy of the appeal letter.

Tab 2

The section behind Tab 2 contains:

- copies of all relevant correspondence, including the guaranty agency's (or agencies') responses to the school's requests for loan servicing records. See 34 CFR § 668.17(h)(3)(iv)(B) and (C).

Tab 3

The section behind Tab 3 contains:

- a spreadsheet of all alleged loan servicing errors for each guaranty agency. (Use spreadsheet **FY *[insert year(s)]* Appeal on Allegations of Improperly Serviced Loans in the Official Cohort Rate**, located on page 97, or its equivalent.) See 34 CFR § 668.17(h)(3)(iv)(A) and (E).

Schools should maintain copies of the loan servicing records submitted to the Department.

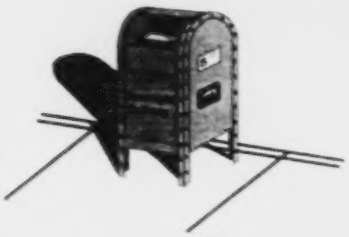
Tab 4

The section behind Tab 4 contains:

- a copy of the alleged improperly serviced loan servicing records provided by the guaranty agency (or agencies) identified on the spreadsheet in Tab 3. See 34 CFR § 668.17(h)(3)(iv)(B).

Note ONLY send copies of loan servicing records for loans that your school alleges to be improperly serviced.

If sent by commercial overnight mail/courier delivery, send your school's improper loan servicing appeal to:



U.S. Department of Education
Default Management Division
ATTN: Improper Loan Servicing and
Collection Appeals
ROB-3, Room 3905
7th and D Streets, SW
Washington, DC 20202

The Department will not accept any appeal correspondence by facsimile (fax) or e-mail.

If sent by U.S. Postal Service, send your school's improper loan servicing appeal to:

U.S. Department of Education
Default Management Division
ATTN: Improper Loan Servicing and
Collection Appeals
ROB-3, Room 3905
600 Independence Avenue, SW
Washington, DC 20202-5353

The Department recommends sending all correspondence return receipt requested or via commercial overnight mail/courier delivery.

The Department accepts deliveries from commercial couriers and/or hand deliveries Monday through Friday, 8:00 a.m. to 4:30 p.m. Eastern Time)

The Department will review only the information submitted with the improper loan servicing appeal and will not consider information submitted after the regulatory deadlines. The Department will send the school and each involved guaranty agency written notification of its decision. **The Department's decision is final and no further administrative review is provided.**

Our Town A&M University

1212 Bell Lane
Leonardtown, Wisconsin 12345-6789
(123) 456-7890

Sample Letter

November 6, 1998

State Guaranty Agency
ATTN: Compliance Officer
1010 Maple Lane, Suite 200
Woodston, Michigan 98765-4321

OPE ID#: *[insert OPE ID#]*

Subject: Request for FY *[insert year(s)]* Representative Sample of Loan Servicing Records

To Whom It May Concern:

Our Town A&M University, **OPE ID # *[insert OPE ID#]***, is requesting a representative sample of its loan servicing records for FY *[insert year(s)]*. Enclosed is a copy of the school's relevant FY *[insert year(s)]* official loan record detail report.

Sincerely,

John Doe

John Doe, President
Our Town A&M University

Enclosures

cc: U.S. Department of Education

Our Town A&M University

1212 Bell Lane
Leonardtown, Wisconsin 12345-6789
(123) 456-7890

Sample Letter

December 5, 1998

U.S. Department of Education
Default Management Division
Attn: Improper Loan Servicing and Collection Appeals
ROB-3, Room 3905
600 Independence Avenue, SW
Washington, DC 20202-5353

OPE ID#: *[insert OPE ID#]*

Subject: Appeal on FY *[insert year(s)]* Allegations of Improper Loan Servicing and Collection

To Whom It May Concern:

Our Town A&M University, **OPE ID # *[insert OPE ID#]***, is submitting its appeal on allegations of improperly serviced loans included in its official FY *[insert year(s)]* cohort default rate.

I, the undersigned, certify that all information provided in this improper loan servicing and collection appeal is true and correct.

Sincerely,

John Doe

John Doe, President
Our Town A&M University

Enclosures

cc: State Guaranty Agency

Appealing Improper Loan Servicing and Collection

How to fill out FY [*insert year(s)*] Allegations of Improperly Serviced Loans in the Official Cohort Default Rate spreadsheet

Record all loans being appealed to the U.S. Department of Education (the Department) using a spreadsheet software application such as Lotus 1-2-3, Supercalc, or Excel. The resulting spreadsheet is sent to the Department.

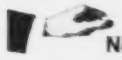
The spreadsheet width should be on one 8 1/2 x 11 page in a landscape (horizontal) layout. A sample spreadsheet follows these instructions.

Header: Enter **FY [*insert year(s)*] Appeal on Allegations of Improperly Serviced Loans in the Official Cohort Default Rate** in the center of the header area. In the upper left, enter your school's name and your school's OPE ID number. In the upper right, enter the total number of loan servicing records for each relevant guaranty agency being submitted to the Department for review.

Footer: Enter the date the appeal was prepared in the left side of the footer area. Set up automatic pagination in the upper right of the footer area so that the specific page number and total number of pages shows on each page (for example: page 1 of 10 pages).

Sort: The report should be a listing of all <u>improperly</u> serviced loans in order by:

1. **Guaranty agency code**
2. **Social Security number**



Note The Department will only review the allegations listed on the school's spreadsheet to the Department.

On Row 1, enter **exactly** the same column name in **exactly** the same order as listed on the sample spreadsheet.

On Row 2 and below, the following data must be included for each alleged error.

Column 1: Enter the borrower's Social Security number using hyphens to separate the numbers (example: 000-88-0000).

Column 2: Enter the borrower's name.

Column 3: Enter the loan type. Use FFEL/SF (Federal Family Education Loan/Stafford), DL/SF (Direct Loan/Stafford), or SLS (Supplemental Loan for Students) to identify the type of loan.

Column 4: Enter MM/DD/YYYY (month/day/year) to identify when a demand letter (other than a final demand letter) was sent. Leave blank if a demand letter was not sent.

Column 5: Enter MM/DD/YYYY to identify when a telephone call to the borrower was attempted. Leave blank if a telephone call was not attempted.

Column 6: Enter MM/DD/YYYY to identify when pre-claims assistance was requested by the lender. Leave blank if pre-claims assistance was not requested.

Column 7: Enter MM/DD/YYYY to identify when a final demand letter was sent. Leave blank if a final demand letter was not sent.

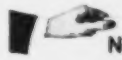
Column 8: Enter MM/DD/YYYY if there is evidence or certification that skip tracing was performed. Enter N/A (not applicable) if not required or leave blank if evidence or certification is not evident.

Column 9: Enter X if an illegible loan servicing record was provided. Leave blank if record was legible.

Column 10: Enter X if a loan servicing record was not provided by the guaranty agency. Leave blank if record was provided.

Column 11: Enter X if a loan servicing record is improperly serviced. ***<u>Properly</u>* serviced loans are <u>NOT</u> to be included in your school's appeal to the Department.**

Column 12: Enter the three digit guaranty agency code for the loan. The three digit code can be found in Appendix A.



Note If a student has more than one defaulted loan and allegations of improper loan servicing are being made on each defaulted loan, each loan must be listed separately on the spreadsheet.

School Name
OPE ID Number

FY [*insert year(s)*]
Appeal on Allegations of Improperly Serviced Loans in the Official Cohort Default Rate

Guaranty agency _____ # of loans ___
Guaranty agency _____ # of loans ___
Guaranty agency _____ # of loans ___

1. Borrower's SSN	2. Borrower's name	3. Type of loan (FFEL/SF DL/SF or SLS)	4. Date demand letter (other than final demand letter) sent (MM/DD/YYYY or leave blank)	5. Date telephone call attempted (MM/DD/YYYY or leave blank)	6. Date pre-claims assistance requested (MM/DD/YYYY or leave blank)	7. Date final demand letter sent (MM/DD/YYYY) or leave blank)	8. Date skip tracing certified or evidence of skip tracing (MM/DD/YYYY, N/A, or leave blank)	9. Illegible loan servicing record provided (X or leave blank)	10. No loan servicing record provided by guaranty agency (X or leave blank)	11. Improperly serviced (X or leave blank)	12. Guaranty agency code
000-44-0000	Bill Brown	FFEL/SF						X		X	555
000-55-0000	Tom Tucker	FFEL/SF		7/8/1996	8/8/1996	11/8/1996	N/A			X	555
000-55-0000	Tom Tucker	SLS		8/9/1996	9/5/1996	12/7/1996	N/A			X	555
000-22-0000	Ken Wood	FFEL/SF								X	709
000-33-0000	Bob Gray	FFEL/SF							X	X	709
000-66-0000	Mary Smith	FFEL/SF	2/1/1996		8/9/1996	11/9/1996	N/A			X	800
000-77-0000	Jill Jones	SLS	4/1/1996	8/2/1996		10/2/1996	N/A			X	800
000-88-0000	John J. Doe	FFEL/SF	5/1/1996	6/2/1996	7/5/1996		N/A			X	800
000-88-0000	John J. Doe	FFEL/SF	5/1/1996	6/2/1996	7/5/1996		N/A			X	800
000-88-0000	John J. Doe	SLS	5/1/1996	6/2/1996	7/5/1996		N/A			X	800

Note: This is a sample spreadsheet.

MM/DD/YYYY [send to U.S. Department of Education]

Page __ of __ pages

Exceptional Mitigating Circumstances Appeal

BACKGROUND

If, due in part to your school's FY 1996 official cohort default rate, your school is subject to initial or extended loss of FFEL Program and/or Direct Loan Program eligibility or is subject to possible action to limit, suspend, or terminate participation in all Title IV federal student financial assistance programs, your school may be able to file an exceptional mitigating circumstances appeal[1] under one or more of the following circumstances:

- If your school certifies relatively few FFEL Program and/or Direct Loan Program loans and your school's FY 1996 cohort default rate is below 40.1 percent, you may be able to file an appeal if your **participation rate index is .0375 or less**[2].
- If your school is a **non-degree-granting school** that enrolls 70.0 percent or more of its students from **economically disadvantaged backgrounds** AND has a **job placement rate** of 50.0 percent or more, you may be able to file an economically disadvantaged and placement rate appeal.[3]
- If your school is a **degree-granting school** that enrolls 70.0 percent or more of its students from **economically disadvantaged backgrounds** AND has a **program completion rate** of 70.0 percent or more, you may be able to file an economically disadvantaged and completion rate appeal.[4]

Note Schools also must submit an **independent auditor's attestation** to support an exceptional mitigating circumstances appeal.[5]

A school must be subject to sanctions to submit an exceptional mitigating circumstances appeal.

If you are not sure whether your school is classified as a degree-granting or non-degree granting school, please refer to your school's Eligibility and Certification Approval Report generated by the Department's Case Management Division. The telephone number for the Case Management Division is (202) 205-0183.

Further details are provided later in this section on each of these three types of exceptional mitigating circumstances.

1. HEA 435(a)(2)(A)(ii)
2. 34 CFR § 668.17(c)(1)(ii)(A)
3. 34 CFR § 668.17(c)(1)(ii)(B) and (B)(2)
4. 34 CFR § 668.17(c)(1)(ii)(B) and (B)(1)
5. 34 CFR § 668.17(c)(7)

Does my school have to be subject to sanctions to submit an exceptional mitigating circumstances appeal?

Please see page 17 for additional information on sanctions.

Yes, your school must be subject to sanctions to file an exceptional mitigating circumstances appeal.

Those schools subject to:

- **initial loss of FFEL Program and/or Direct Loan Program eligibility**[6]
- **extended loss of FFEL Program and/or Direct Loan Program eligibility**[7]

AND/OR

- **possible action to limit, suspend, or terminate (LS&T) eligibility to participate in all Title IV federal student financial assistance programs**[8]

can file an exceptional mitigating circumstances appeal based on its **economically disadvantaged and placement rates** or an exceptional mitigating circumstances appeal based on its **economically disadvantaged and completion rates** depending on whether the school is a degree-granting or a non-degree granting school.

Those schools subject to:

- **initial loss of FFEL Program and/or Direct Loan Program eligibility**

OR

- **extended loss of FFEL Program and/or Direct Loan Program eligibility**

may also file an exceptional mitigating circumstances appeal based on its **participation rate index**.

A school that is subject to a possible LS&T action due to its FY 1996 official cohort default rate may NOT file an exceptional mitigating circumstances appeal on the basis of its participation rate index.

Note A school may NOT file an exceptional mitigating circumstances appeal on the basis of its participation rate index if its FY 1996 official cohort default rate is greater than 40.0 percent, even if the school is subject to initial or extended loss of eligibility to participate in the FFEL Program and/or Direct Loan Programs.

6. 34 CFR § 668.17(c)(1)(ii)
7. Id.
8. 34 CFR § 668.17(a)(5)

Example 1: Our City College's (OCC) cohort default rates are as follows—

FY 1996: 50.5% FY 1995: 28.7% FY 1994: 29.9%

On notification of its FY 1996 official cohort default rate, OCC, a non-degree-granting school, is subject to a possible LS&T action; it is also subject to initial loss of eligibility to participate in the FFEL Program because this is its third consecutive cohort default rate of 25.0 percent or greater. Therefore, OCC may file an appeal based on its economically disadvantaged and placement rates. OCC may **not**, however, file an exceptional mitigating circumstances appeal on the basis of its participation rate index because its FY 1996 official cohort default rate is greater than 40.0 percent.

Example 2: Your Town College's (YTC) cohort default rates are as follows—

FY 1996: 49.7% FY 1995: 26.0% FY 1994: 21.7%

On notification of its FY 1996 official cohort default rate, YTC, a degree-granting school, is subject to a possible LS&T action but is **not** subject to initial or extended loss of eligibility to participate in the FFEL Program and/or Direct Loan Program. YTC may file an exceptional mitigating circumstances appeal based on its economically disadvantaged and completion rates since it is subject to a possible LS&T action due to its FY 1996 cohort default rates. YTC may **not**, however, file an exceptional mitigating circumstances appeal on the basis of its participation rate index because its FY 1996 official cohort default rate is greater than 40.0 percent and as a result is subject to possible LS&T action.

How can a successful exceptional mitigating circumstances appeal affect my school's official cohort default rate?

If your school's appeal is successful, the Department withdraws its notification of loss or extension of loss of your school's eligibility to participate in the FFEL Program and/or Direct Loan Program and/or the Department's notification that your school is subject to an action to LS&T its participation in all Title IV student financial assistance programs.[9] A successful exceptional mitigating circumstances appeal does NOT, however, change your school's official cohort default rate.

Q. What effect does a successful FY 1996 exceptional mitigating circumstances appeal have on future FFEL Program and/or Direct Loan Program eligibility determinations based, in part, on my school's FY 1996 official cohort default rate?

A. None. Regardless of a successful FY 1996 exceptional mitigating circumstances appeal, your school's FY 1996 official cohort default rate may be considered in future FFEL Program and/or Direct Loan Program determinations based on its cohort default rates.

9. 34 CFR § 668.17(c)(5) and (a)(5)

What role does a guaranty agency or Direct Loan servicer have in my school's exceptional mitigating circumstances appeal to the Department?

Neither a guaranty agency nor the Direct Loan servicer has a role in your school's exceptional mitigating circumstances appeal. Exceptional mitigating circumstances appeals are submitted directly to the Department for review and consideration.

Must appeals be on the basis of specific time periods?

If your school selects an unacceptable 12-month period, its appeal will be denied.

For each exceptional mitigating circumstances appeal, your school must base its appeal on a specific 12-month period. The regulations provide that an exceptional mitigating circumstances appeal must be based on "a 12-month period that has ended during the six months immediately preceding the fiscal year for which the cohort of students used to calculate the institution's rate is determined."[10] Accordingly, for an exceptional mitigating circumstances appeal submitted immediately after the school's receipt of the FY 1996 cohort default rate, your school must select a 12-month period that has a start date that is **no earlier than April 2, 1994 and no later than October 1, 1994.**

Your school's 12-month period cannot overlap the starting date.

- Acceptable:
  June 20, 1994 to
  June 19, 1995
- Not Acceptable:
  June 20, 1994 to
  June 20, 1995

For example:

Acceptable: April **2**, 1994 - April **1**, 1995

Not Acceptable: April **1**, 1994 - March **31**, 1995

Acceptable: October **1**, 1994 - September **30**, 1995

Not Acceptable: October **2**, 1994 - October **1**, 1995

10. 34 CFR § 668.17(c)(1)(ii)(A) and (B)

TIMING

What are the time frames for submitting an exceptional mitigating circumstances appeal?

Timing is critical. Your school must submit its **exceptional mitigating circumstances appeal** and the **independent auditor's attestation** within the following regulatory time frames.

- Within **30 calendar days** of receiving its official notification that your school is subject to sanctions, your school must submit its exceptional mitigating circumstances appeal to the Department.[11]
- Within **60 calendar days** of receiving its official notification that your school is subject to sanctions, your school or independent auditor must submit an independent auditor's attestation of your appeal to the Department.[12]

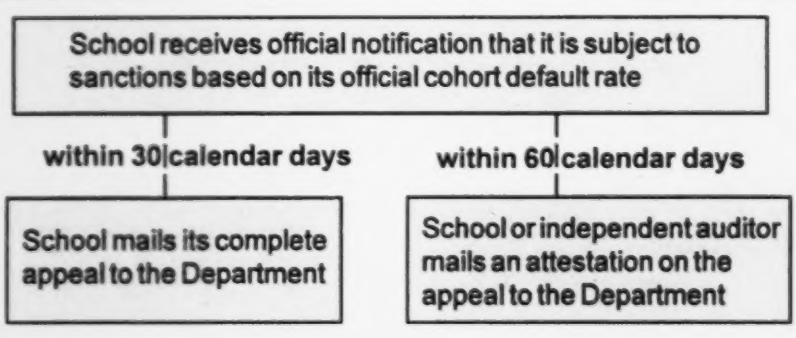
In counting calendar days, federal holidays are NOT excluded.

Important: At this point, schools have **30 calendar days** to act.

Important: At this point, schools have **60 calendar days** to act.

The following chart summarizes the time frames for schools to appeal based on exceptional mitigating circumstances.

Time Frames for Exceptional Mitigating Circumstances Appeals


School receives official notification that it is subject to sanctions based on its official cohort default rate
within 30 calendar days
within 60 calendar days
School mails its complete appeal to the Department
School or independent auditor mails an attestation on the appeal to the Department

If your school fails to meet either of the time frames, the Department will NOT review the appeal.

11. 34 CFR § 668.17(c)(1)
12. 34 CFR § 668.17(c)(7)

What is an independent auditor's attestation?

The Statement on Standards for Attestation Engagements #3 is published in the most recent *American Institute of Certified Public Accountants' Codification of Statements on Auditing Standards*.

An auditor's attestation is a certified public accountant's opinion according to the *American Institute of Certified Public Accountants' (AICPAs') Statement on Standards for Attestation Engagements #3* on an assertion made by management on your school's exceptional mitigating circumstances appeal.[13] The regulations provide that if an institution appeals on the grounds that it meets the exceptional mitigating circumstances criteria, the institution must also include in its appeal an opinion from an independent auditor on management's assertions that the information contained in the appeal is complete, accurate, and determined in accordance with the Department's regulations in 34 CFR § 668.17(c)(1)(ii). The institution or auditor must submit the attestation to the Department within **60 calendar days** of the institution receiving notification that it is subject to sanctions.

The *AICPAs' Statement on Standards for Attestation Engagements #3* contains the reporting requirements and guidelines the auditor must follow when providing an opinion on management's assertions. The auditor will express an opinion about whether management's assertion that the institution complied with the exceptional mitigating circumstances regulations is fairly presented in all material respects. For a sample letter of an auditor's attestation, see page 119.

Before making the attestation, is the auditor required to perform a full-file review of my school's records?

The auditor must follow the *AICPAs' Statement on Attestation Engagements #3* and perform all other procedures that the auditor believes are reasonably necessary to complete the attestation. The auditor should follow all standards that are applicable to an examination level engagement and, on the basis of his or her professional judgement, determine the nature and extent of the procedures that are necessary for him or her to express an opinion on management's assertion.

13. 34 CFR § 668.17(c)(7)

Participation Rate Index Criterion

QUALIFYING

To file an exceptional mitigating circumstances appeal based on the **participation rate index**, your school must:

- be subject to initial or extended loss of eligibility to participate in the FFEL Program and/or Direct Loan Program,

  AND

- have an FY 1996 cohort default rate less than 40.1 percent,

  AND

- have a participation rate index equal to or less than .0375.[14]

The participation rate index is the fraction of your school's regular students enrolled on at least a half-time basis who were awarded a loan under the FFEL Program and/or Direct Loan Program during a selected 12-month period as required in 34 CFR § 668.17(c)(1)(ii)(A) **multiplied** by your school's FY 1996 official cohort default rate.

Note A school with an FY 1996 official cohort default rate greater than 40.0 percent may **NOT** submit an exceptional mitigating circumstances appeal on the basis of its participation rate index.[15]

The checklist on the next page summarizes the participation rate index eligibility criteria.

A school must select a 12-month period that has a start date that is **no earlier than April 2, 1994 and no later than October 1, 1994.**

See page 102 for further information on selecting a 12-month period.

14. 34 CFR § 668.17(c)(1)(ii)(A)
15. Id.

Exceptional Mitigating Circumstances Appeal Based on the Participation Rate Index Eligibility Checklist

To be eligible to appeal based on its participation rate index, your school must meet the following criteria:

- ❒ Your school is subject to either of these sanctions—
  - initial FFEL Program and/or Direct Loan Program loss

    OR
  - extended FFEL Program and/or Direct Loan Program loss.
- ❒ Your school's participation rate index is .0375 or less as described in 34 CFR § 668.17(c)(1)(ii)(A).
- ❒ Your school's FY 1996 official cohort default rate is below 40.1 percent.

SUBMITTING

How do I calculate the participation rate index?

The **participation rate index (PRI)**[16] is calculated as follows:

your school's FY 1996 official cohort default rate **[A1]**

X

number of regular students enrolled on at least a half-time basis who received an FFEL Program loan or Direct Loan Program loan for a loan period that overlaps the selected 12-month period by at least one day **[A2]**

---

number of regular students enrolled on at least a half-time basis during the selected 12-month period **[A3]**

Note Information on how to select an acceptable 12-month period is provided on page 102.

16. 34 CFR § 668.17(c)(1)(ii)(A)

To succeed on an exceptional mitigating circumstances appeal based on your school's participation rate index, your school must have a participation rate index of .0375 or less.[17]

Example: Hometown Academy's (HA) FY 1996 official cohort default rate is 25.0 percent. HA had a total of 200 regular students enrolled on at least a half-time basis during the selected 12-month period. Of those 200 students, 14 students received an FFEL Program loan for a loan period that overlaps the selected 12-month period by at least one day and 12 different students received a Direct Loan Program loan for a loan period that overlapped the selected 12-month period by at least one day. HA's participation rate index is calculated as follows:

$$25.0\%\ [A1] \times \frac{14\ (FFEL) + 12\ (DL) = 26\ [A2]}{200\ [A3]} = .0325$$

Therefore, its participation rate index

= A1 x A2 / A3 = 25.0 x 26 / 200 = .0325

Hometown Academy's participation rate index is .0325. Because this is less than .0375, HA can file an exceptional mitigating circumstances appeal on the basis of its participation rate index.

How does my school prepare and submit an exceptional mitigating circumstances appeal based on its participation rate index to the Department?

Step 1: Review your school's official cohort default rate notification letter and this Guide to determine if your school is eligible to submit an exceptional mitigating circumstances appeal based on its participation rate index.

Refer to the beginning of this section for a detailed discussion regarding which schools are eligible to appeal based on the participation rate index.

17. 34 CFR § 668.17(c)(1)(ii)(A)

A "regular student" is defined as a person who is enrolled, or accepted for enrollment, in an eligible program at an eligible postsecondary institution for the purpose of obtaining a degree, certificate, or other recognized educational credential offered by that institution as defined in 34 CFR § 600.2.

In your list of "regular students" enrolled on at least a half-time basis, you must include students who:

- began enrollment before the 12-month period and ended enrollment during or after the 12-month period,

  AND/OR

- began enrollment during the 12-month period and ended enrollment during or after the 12-month period.

Q. If more than one loan period falls during the selected 12-month period, which loan data should my school use?

A. List both; the student will be counted only once.

Q. If a student has a break in enrollment and leaves school, then returns and begins a new enrollment period, all during the selected 12-month period, which enrollment dates should my school use?

A. List both; the student will be counted only once.

Step 2: Calculate and list the following data to support your school's participation rate index.

- Use the spreadsheet **FY 1996 Participation Rate Index** (PRI) on page 117 or its equivalent to count and list the students who will be included in your school's participation rate index.
- On the PRI spreadsheet, fill out your school's name and OPE ID Number.
- Select an acceptable 12-month period and enter it on the PRI spreadsheet (see page 102 for details on how to select a 12-month period).
- Fill out Column 1 of the PRI spreadsheet: **in numerical order**, list the Social Security numbers of all your regular students enrolled on at least a half-time basis during any part of the selected 12-month period.
- Fill out Column 2 of the PRI spreadsheet: for each Social Security number, list the student's name.
- Fill out Column 3 of the PRI spreadsheet: for each student, provide beginning and ending **enrollment dates**. For all enrollment dates, include the month, day and year (MM/DD/YYYY).
- Fill out Column 4 of the PRI spreadsheet: if the student received an FFEL Program loan or a Direct Loan Program loan during the selected 12-month period, enter X. (If not, do not make an entry.)
  - The students for whom you enter X will be those students who received FFEL Program loans and/or Direct Loan Program loans for a period of enrollment that coincides with **any part** of the 12-month period selected. If any part of the loan period falls within the 12-month period, the student must be identified and counted as having received a student loan.

Note No student may be counted more than once in the calculation, even if the student was awarded more than one loan.

- Fill out Column 5 of the PRI spreadsheet: For each student with an FFEL Program loan or a Direct Loan Program loan, provide the beginning and ending dates of the **loan period**.
- Complete Box A by identifying your school's FY 1996 official cohort default rate, which is found on your school's most recent notification letter from the Department. This is **A1** in the calculation. Enter this rate in Box A on the PRI spreadsheet.
- Count the number of Xs that appear in Column 4. The total number of Xs will be **A2** in the calculation. Record this number in Box A on the PRI spreadsheet.
- Count the total number of students listed in the PRI spreadsheet by counting the number of entries in Column 1. The total number of students will be **A3** in the calculation. Record this number in Box A on the PRI spreadsheet.
- Calculate **A1 x A2 / A3** and record the result in Box A on the PRI spreadsheet. **This is your school's participation rate index**.

Note For a successful appeal, your school's participation rate index must be .0375 or less.

Step 3: Submit your school's properly completed exceptional mitigating circumstances appeal on the basis of its participation rate index.

- Within **30 calendar days** of your school receiving notification that your school is subject to initial or extended loss of FFEL Program and/or Direct Loan Program eligibility, mail your exceptional mitigating circumstances appeal to the Department.
- The Department recommends that your school submit its properly completed exceptional mitigating circumstances appeal in a single, tabbed binder, and mail it return receipt requested or via commercial overnight delivery.

  The recommended tabs and materials are shown on the next page.

Important: At this point, schools have **30 calendar days** to act.

Tab 1

The section behind Tab 1 contains:

- A letter on your school's letterhead with—
  - your school's OPE ID number;
  - a statement indicating that your school is submitting an exceptional mitigating circumstances appeal based on your participation rate index;
  - the fiscal year to which the appeal applies;
  - a certification statement that all information in the appeal is true and correct. See 34 CFR § 668.17(c)(6);

    AND
  - a signature by your school's President/CEO/Owner, followed by a signature block providing the signer's name and job title.

(See sample letter **FY 1996 Exceptional MitigatingCircumstances Appeal Based on the Participation Rate Index**, on page 113.)

Tab 2

The section behind Tab 2 contains:

- A completed PRI spreadsheet with a list of all students used to calculate your participation rate index. (Use spreadsheet **FY 1996 Participation Rate Index**, on page 117, or its equivalent.)

Step 4: Submit an independent auditor's attestation.

Important: At this point, schools have **60 calendar days** to act.

- Within **60 calendar days** of your school receiving official notification that your school is subject to initial or extended loss of FFEL Program and/or Direct Loan Program eligibility, mail an independent auditor's attestation of your school's exceptional mitigating circumstances appeal on the basis of its participation rate index to the Department.

More information on the auditor's attestation is provided on page 104.

- The attestation should be in the form of a letter on the independent auditor's letterhead with—
  - your school's name;
  - your school's OPE ID number;
  - the fiscal year to which the appeal applies;
  - an opinion on management's assertion that the information contained in the appeal is complete, accurate, and determined in accordance with the Department's regulations in 34 CFR § 668.17(c)(1)(ii);

AND

- a signature by the independent auditor, followed by a signature block providing the signer's name and job title.

(See sample letter **Independent Accountant's Attestation Report for Exceptional Mitigating Circumstances Appeal Based on FY 1996 Participation Rate Index**, located on page 119 .)

Note If a school or auditor fails to meet the regulatory time frames for the appeal and/or attestation, the Department will NOT review its appeal.[18] **The Department's decision is final and no further administrative review is provided.**

18. 34 CFR § 668.17(c)(1)

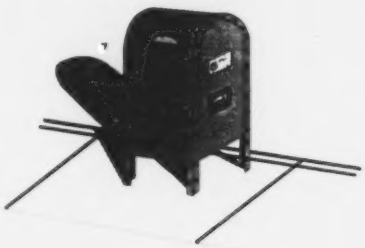
The Department will not accept any appeal correspondence by facsimile (fax) or e-mail.

The Department recommends sending all correspondence return receipt requested or via commercial overnight mail/courier delivery.

The Department accepts deliveries from commercial couriers and/or hand deliveries Monday through Friday, 8:00 a.m. to 4:30 p.m. (Eastern Time).

If sent by commercial overnight mail/courier delivery, send your exceptional mitigating circumstances appeal to:

U.S Department of Education
Default Management Division
ATTN: Exceptional Mitigating
Circumstances Appeals
ROB-3, Room 3905
7th and D Streets, SW
Washington, DC 20202



If sent by U.S. Postal Service, send your school's exceptional mitigating circumstances appeal to:

U.S. Department of Education
Default Management Division
ATTN: Exceptional Mitigating
Circumstances Appeals
ROB-3, Room 3905
600 Independence Avenue, SW
Washington, DC 20202-5353

The Department will review only the information submitted with the exceptional mitigating circumstances appeal and will not consider information submitted after the regulatory deadlines. The Department will send the school written notification of its decision. **The Department's decision is final and no further administrative review is provided.**

Our Town A&M University

1212 Bell Lane
Leonardtown, Wisconsin 12345-6789
(123) 456-7890

Sample Letter

November 20, 1998

U.S. Department of Education
Default Management Division
ATTN: Exceptional Mitigating Circumstances Appeals
ROB 3, Room 3905
600 Independence Avenue, SW
Washington, DC 20202-5353

OPE ID #: [*insert OPE ID#*]

Subject: FY 1996 Exceptional Mitigating Circumstances Appeal Based on the Participation Rate Index

To Whom It May Concern:

Our Town A&M University, **OPE ID #** [*insert OPE ID#*], is submitting its FY 1996 exceptional mitigating circumstances appeal based on its participation rate index.

I, the undersigned, certify under penalty of perjury, that the school's participation rate index is [*insert .0XXX*] and that all other information submitted in support of this exceptional mitigating circumstances appeal is true and correct.

Sincerely,

John Doe

John Doe, President
Our Town A&M University

Enclosures

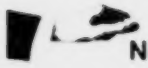
Appealing Exceptional Mitigating Circumstances Based on the Participation Rate Index

How to fill out FY 1996 Participation Rate Index spreadsheet

Count and list the students who will be included in the calculation of your school's participation rate index using a spreadsheet software application such as Lotus 1-2-3, Supercalc, or Excel. The resulting spreadsheet must be sent to the Department.

The spreadsheet width should be on one 8 1/2 x 11 page in a landscape (horizontal) layout. A sample spreadsheet follows these instructions.

Header: Enter **FY 1996 Participation Rate Index** in the center of the header area. In the left-hand area, enter your school's name, your school's OPE ID number, and your school's selected 12-month period.



Note You must select a 12-month period that has a start date **NO EARLIER THAN April 2, 1994 and NO LATER THAN October 1, 1994**.

Footer: Enter the date when the appeal was prepared in the left side of the footer area. Set up automatic pagination in the right side of the footer area so that the specific page number and the total number of page numbers show on each page (example: page 1 of 10 pages).

On Rows 1, 2, 3, and 4 use the draw tool to draw a rectangle covering lines A1 to E4. Using the text-box tool, draw another box for Box A information. In this box, enter your school's FY 1996 Official Cohort Default Rate **[A1]**, the number of students (reported in column 4) awarded FFEL/DL loans **[A2]**, the number of regular students (listed in Column 1) **[A3]**, and your school's participation rate index [A1xA2/A3]. See the Instructions for Box A information on the following page.

On Row 5, enter exactly the same column names in exactly the same order as listed on the sample spreadsheet.

On Row 6 and below, include the following data for each student who will be included in calculating your school's participation rate index.

Column 1: Enter the student's Social Security number using hyphens to separate the numbers (example: 000-00-0000) for all of your regular students enrolled on **at least a half-time basis** during any part of the selected 12-month period. (No student will be counted more than once in the calculation.) Sort by numerical order when ready to print the spreadsheet.

Column 2: Enter the student's name.

Column 3: Enter MM/DD/YYYY (month, day, year) to identify the student's beginning enrollment date and ending enrollment date.

Column 4: Enter X if the student received an FFEL Program loan or a Direct Loan Program loan for a loan period that coincides with any part of the selected 12-month period. Leave blank if a loan was not awarded or it does not coincide with 12-month period.

Note If any part of the loan period dates fall within the 12-month period, the student must be identified and counted as having been awarded a loan.

Column 5: If a loan was awarded, enter MM/DD/YYYY to identify the beginning date and ending date of the loan period. If column 4 is not filled out, leave this column blank.

Appealing Exceptional Mitigating Circumstances Based on the Participation Rate Index

How to fill out FY 1996 Participation Rate Index spreadsheet (cont'd)

Instructions for Box A (located in the shaded area):

- Identify your school's FY 1996 official cohort default rate found on your school's most recent notification letter from the Department. This is **A1** in the calculation. Record this number in Box A on the PRI spreadsheet.
- Count the number of Xs that appear in Column 4. The total number of Xs will be **A2** in the calculation. Record this number in Box A on the PRI spreadsheet.
- Count the total number of students listed in the PRI spreadsheet by counting the number of entries in Column 1. The total number of students will be **A3** in the calculation. Record this number in Box A on the PRI spreadsheet.
- Calculate **A1 x A2/A3** and record the result in Box A on the PRI spreadsheet. **This is your school's participation rate index.**

School Name
OPE ID Number
12-Month Period: **Sample** 4/2/1994-4/1/1995

FY 1996
Participation Rate Index

Note: This is a sample spreadsheet.
(See instructions.)

Box A

FY 1996 Official Cohort Default Rate **[A1]**	___%
No. of Students Receiving FFEL/DL loans (reported in column 4) **[A2]**	____
No. of Regular Students (listed in column 1) **[A3]**	____
Participation Rate Index **[A1 x A2/A3]**	____

1. Student's SSN (sort in numerical order)	2. Student's name	3. Student's enrollment dates (from MM/DD/YYYY to MM/DD/YYYY)	4. If student was awarded FFEL Program and/or Direct Loan Program loan during any part of the 12-month period, enter X	5. Beginning dates and ending dates of loan periods for FFEL or Direct Loan loans, if awarded (from MM/DD/YYYY to MM/DD/YYYY)
111-11-1111	Jane Smith	3/15/1994-3/10/1995	X	9/30/1994-3/10/1995
222-22-2222	John Doe	6/16/1994-10/3/1995		

MM/DD/YYYY

[send to U.S. Department of Education]

Page __ of __ pages

GLOBAL ACCOUNTING, INC.

1212 Main Street
Dunkirk, Maine 11111-2222
(111) 111-1111

Sample Letter

December 15, 1998

U.S. Department of Education
Default Management Division
ATTN: Exceptional Mitigating Circumstances Appeals
ROB 3, Room 3905
600 Independence Avenue, SW
Washington, DC 20202-5353

OPE ID#: [*insert OPE ID#*]

Subject: Independent Accountant's Attestation Report for Exceptional Mitigating Circumstances Appeal Based on FY 1996 Participation Rate Index

To Whom It May Concern:

We have examined management's assertion included in its representation letter, dated [*insert date*], stating that the information contained in [*insert school's name*]'s OPE-ID # [*insert OPE ID#*] exceptional mitigating circumstances appeal based on its participation rate index, is complete, accurate and determined in accordance with the requirements of 34 CFR § 668.17(c). As discussed in that representation letter, management is responsible for [*insert school's name*]'s compliance with those requirements. Our responsibility is to express an opinion on management's assertion about the institution's compliance based on our examination.

Our examination was made in accordance with standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence about [*insert school's name*]'s compliance with 34 CFR § 668.17(c) and performing such other procedures as we considered necessary in the circumstances. We believe our examination provides a reasonable basis for our opinion. Our examination does not provide a legal determination on [*insert school's name*]'s compliance with specified requirements.

In our opinion, management's assertion that the information contained in [*insert school's name*]'s appeal, dated [*insert date*], which reports that [*insert school's name*] has a participation rate index of [*insert PRI*.0XXX) for the twelve-month period beginning on [*insert MM/DD/YYYY*] and ending on [*insert MM/DD/YYYY*], is complete, accurate, and determined in accordance with the requirements set forth in 34 CFR § 668.17(c), is fairly stated, in all material respects.

This report is intended solely for the information of an audit committee, management, and the U.S. Department of Education. This report is, however, a matter of public record and its distribution is not limited.

Respectfully submitted,

Mary Smith

Mary Smith, CPA
President, Global Accounting, Inc.

Economically Disadvantaged and Placement Rates Criteria

QUALIFYING

To file an exceptional mitigating circumstances appeal based on **economically disadvantaged and placement rates**, your school must:

- be subject to sanctions,

  AND

- be a **non-degree-granting** school,[19]

  AND

- demonstrate that 70.0 percent or more of its regular students during a selected 12-month period were individuals who came from **disadvantaged economic backgrounds**,[20]

  AND

- demonstrate that 50.0 percent or more of its students who were initially enrolled on at least a half-time basis, remained enrolled beyond the point that they would receive a 100 percent tuition refund and, were originally scheduled to complete their programs during the same 12-month period identified above **obtained employment in the occupations for which the school provided training**.[21]

The checklist on the next page summarizes the eligibility criteria for an exceptional mitigating circumstances appeal based on economically disadvantaged and placement rates. Review the checklist to determine your school's eligibility to appeal based on exceptional mitigating circumstances.

If you are not sure whether your school is classified as a degree-granting or non-degree-granting school, please refer to your school's Eligibility and Certification Approval Report generated by the Department's Case Management Division. The telephone number for the Case Management Division is (202) 205-0183.

A school must select a 12-month period that has a start date that is **no earlier than April 2, 1994 and no later than October 1, 1994**.

See page 102 for further information on selecting a 12-month period.

19. 34 CFR § 668.17(c)(1)(ii)(B)(2)
20. 34 CFR § 668.17(c)(1)(ii)(B)
21. 34 CFR § 668.17(c)(1)(ii)(B)(2)

Exceptional Mitigating Circumstances Appeal Based on the Economically Disadvantaged and Placement Rates Eligibility Checklist

These appeal criteria are only for **non-degree-granting** schools.

To be eligible to appeal based on its students' economically disadvantaged rate and placement rates, your school must meet the following criteria:

- ❑ Your school is subject to one of the following sanctions—
  - ❍ initial FFEL Program and/or Direct Loan Program loss

    OR
  - ❍ extended FFEL Program and/or Direct Loan Program loss

    AND/OR
  - ❍ possible action to limit, suspend, or terminate (LS&T) eligiblity to participate in all Title IV student financial assistance programs.
- ❑ Your school is a **non-degree-granting** school that—
  - ❍ enrolls 70.0 percent or more of its students from disadvantaged economic backgrounds as described in 34 CFR § 668.17(c)(1)(ii)(B)

    AND
  - ❍ can demonstrate that 50.0 percent or more of its students were placed successfully as described in 34 CFR § 668.17(c)(1)(ii)(B)(*2*).

SUBMITTING

How do I calculate the economically disadvantaged rate and the placement rate?

The **economically disadvantaged rate (EDR)**[22] is the following percentage:

$$100 \times \frac{\text{number of regular students enrolled during the selected 12-month period who had an EFC of zero or AGI less than the HHS poverty level [B1]}}{\text{number of regular students enrolled during the selected 12-month period [B2]}}$$

Key:

- EFC: Expected Family Contribution
- AGI: Adjusted Gross Income
- HHS: U.S. Department of Health and Human Services (For poverty level guidelines, see page 134.)

Note Information on how to select an acceptable 12-month period is provided on page 102.

Your school must use the same 12-month period for calculating both rates.

The **placement rate (PR)**[23] is the following percentage:

$$100 \times \frac{\text{number of regular students, initially enrolled on at least a half-time basis and originally scheduled to complete their programs during the selected 12-month period who } \textit{either}: \text{ (1) were employed in an occupation for which the school provided training on the day following 12 months after their last day of attendance at the school AND/OR (2) were employed in an occupation for which the school provided training for at least 13 weeks before the day following 12 months after their last day of attendance [C1]}}{\text{number of regular students who were initially enrolled on at least half-time basis and were originally scheduled to complete their programs during the selected 12-month period [C2]}}$$

The 13 weeks of employment can include relevant employment any time **after** the student's beginning enrollment date. But the 13 weeks must be completed before the day following 12 months after the student's last day of attendance.

The denominator count of the placement rate includes all regular students who remained in the program beyond the point the students would have received a one hundred percent tuition refund from the institution. See 34 C.F.R. Section 668.17(c)(i)(ii)(B)(2).

22. 34 CFR § 668.17(c)(1)(ii)(B)
23. 34 CFR § 668.17(c)(1)(ii)(B)(2)

To succeed on an exceptional mitigating circumstances appeal based on your school's economically disadvantaged and placement rates, your school must have an economically disadvantaged rate of 70.0 percent or more and a placement rate of 50.0 percent or more.

How does my school prepare and submit an exceptional mitigating circumstances appeal on the basis of its economically disadvantaged and placement rates to the Department?

Refer to the beginning of this section for a detailed discussion regarding which schools are eligible to appeal based on the economically disadvantaged and placement rates.

Step 1: Review your school's official cohort default rate notification letter and this Guide to determine if your school is eligible to submit an exceptional mitigating circumstances appeal based on its economically disadvantaged and placement rates.

A "regular student" is defined as a person who is enrolled, or accepted for enrollment, in an eligible program at an eligible postsecondary institution for the purpose of obtaining a degree, certificate, or other recognized educational credential offered by that institution as defined in 34 CFR § 600.2.

Step 2: Calculate and list the following data to support your school's economically disadvantaged rate.

- Use the spreadsheet **FY 1996 Economically Disadvantaged Rate** (EDR) on page 139 or its equivalent to count and list the students who will be included in the calculation of your school's economically disadvantaged rate.
- On the EDR spreadsheet, fill out your school's name and OPE ID Number.
- Select an acceptable 12-month period and enter it on the EDR spreadsheet (see page 102 for details on selecting an acceptable 12-month period).
- Fill out Column 1 of the EDR spreadsheet: **in numerical order**, list the Social Security numbers of all your regular students enrolled during any part of the selected 12-month period. **No student will be counted more than once in the calculation.**
- Fill out Column 2 of the EDR spreadsheet: for each Social Security number, list the student's name.
- Fill out Column 3 of the EDR spreadsheet: for each student, provide beginning and ending **enrollment dates**. For all enrollment dates, include the month, day, and year (MM/DD/YYYY).

In your list of "regular students" you must include students who:

- began enrollment before the 12-month period and ended enrollment during or after the 12-month period.

  AND/OR
- began enrollment during the 12-month period and ended enrollment during or after the 12-month period.

- Fill out Column 4 of the EDR spreadsheet: if the student was from an economically disadvantaged background during the selected 12-month period, as described below, enter X. (If not, leave blank.)

- If you enter X for a student in Column 4, *either*

  (1) the student must have an EFC of zero for any award year that generally coincides with the 12-month period,

  OR

  (2) the student and, if applicable, his or her parents or spouse must have an adjusted gross income (AGI) less than the Health and Human Services (HHS) poverty levels for any calendar year that generally coincides with the 12-month period. The HHS poverty levels are shown on page 134.

An award year begins on July 1 and ends on June 30. The 1993-1994 award year began July 1, 1993 and ended June 30, 1994.

EFC TEST

- To determine whether a student qualifies as economically disadvantaged under the **EFC test**, first identify which award years overlap by at least one day with your school's selected 12-month period. If the student had a zero EFC in any of the overlapping award years, he or she qualifies as economically disadvantaged. For example:

  - Selected 12-month period: April 2, 1994 to April 1, 1995

  - Acceptable (overlapping) award years: 1993-1994 or 1994-1995

An award year "generally coincides" with a 12-month period if they overlap by at least one day.

Q. What if a student has an EFC of zero, but the award year does not overlap the 12-month period?

A. The student is not considered economically disadvantaged unless he or she has a qualifying AGI that generally coincides with the 12-month period.

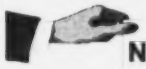
AGI TEST

- If the student does not qualify based on EFC, he or she may still qualify based on AGI. To determine if the student is economically disadvantaged on the basis of the **AGI test,** identify which calendar years could be used to determine an EFC for award year that "generally coincides" with the selected 12-month period.

A calendar year "generally coincides" with a 12-month period if the calendar year associated with the AGI could have been used to determine a student's EFC for an award year that "generally coincides" with the 12-month period chosen by the school.

To determine acceptable calendar years, first determine acceptable award years.

- If the student and, if applicable, his or her parents or spouse had an AGI below the HHS poverty level in any of the acceptable calendar years, the student qualifies as economically disadvantaged under the AGI test. For example:
  - Selected 12-month period: October 1, 1994 to September 30, 1995
  - Acceptable (overlapping) award years: 1994-1995 or 1995-1996
  - Acceptable calendar years: 1993, 1994, 1995



Note The 1993, 1994 and 1995 calendar years are acceptable calendar years because the 1993 and/or 1994 calendar year could be used to determine an EFC for the 1994/1995 award year. The 1994 and/or 1995 calendar year could be used to determine an EFC for the 1995/1996 award year.

- Fill out Column 5 or Column 6 of the EDR spreadsheet: for each student from a disadvantaged economic background, provide:

  EITHER

  - the **EFC** and the **award year** that generally coincides with the selected 12-month period (in Columns 5a and 5b)

  OR

  - the **AGI**, **family size**, and **calendar year** that generally coincides with the selected 12-month period (in Columns 6a, 6b, and 6c)

Students with an EFC of zero must have an award year listed on the spreadsheet to be included in the numerator of the calculation.

A student with an AGI that meets the poverty threshold must have a family size and calendar year listed on the spreadsheet to be included in the numerator of the calculation.

- Complete Box B by counting the number of Xs that appear in Column 4. The total number of Xs will be **B1** in the calculation. Record this number in Box B on the EDR spreadsheet.
- Count the total number of students listed in the EDR spreadsheet by counting the number of entries in Column 1. The total number of students will be **B2** in the calculation. Record this number in Box B on the EDR spreadsheet.

- Calculate **100 x B1 / B2** and record the result in Box B on the EDR spreadsheet. **This percentage is your school's economically disadvantaged rate**.

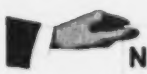
Note As part of a successful appeal, your school's economically disadvantaged rate must be 70.0 percent or greater.

Step 3: Calculate and list data to support your school's placement rate.

- Use the spreadsheet **FY 1996 Placement Rate** (PR) on page 143 or its equivalent to count and list the students who will be included in the calculation of your school's placement rate.
- On the PR spreadsheet, fill out your school's name and OPE ID Number.
- **Enter and use the same 12-month period as on the FY 1996 Economically Disadvantaged Rate spreadsheet.**
- Fill out Column 1 of the PR spreadsheet: **In numerical order**, list the Social Security numbers of **all your students who meet the following conditions**:
  - ❖ regular students who were initially enrolled on **at least a half-time basis** at your school,

    AND
  - ❖ at the time of their enrollment, were originally scheduled to complete their programs during the selected 12-month period,

    AND
  - ❖ remained in the program beyond the point at which they would have received a 100 percent tuition refund from your school.



Note No student will be counted more than once in the calculation.

A "regular student" is defined as a person who is enrolled, or accepted for enrollment, in an eligible program at an eligible postsecondary institution for the purpose of obtaining a degree, certificate, or other recognized educational credential offered by that institution as defined in 34 CFR § 600.2.

The denominator count must *also* include all students who were initially enrolled on at least a half-time basis at your school and were scheduled to complete the program during the 12-month period but WITHDREW from the program after they passed the point to receive a one-hundred percent tuition refund from your school.

All dates included in the PR spreadsheet must include month, day, and year.

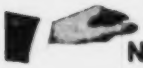
- Fill out Column 2 of the PR spreadsheet: for each Social Security number, list the student's name.
- Fill out Column 3 of the PR spreadsheet: provide each student's address.
- Fill out Column 4 of the PR spreadsheet: provide each student's program of study. Do not use abbreviations.
- Fill out Column 5 of the PR spreadsheet: provide the date that each student was originally scheduled, at the time of enrollment, to complete his or her program of study.
  - ❖ If the student was initially enrolled **half-time**, the **scheduled to complete** date will be based on the amount of time it would take the student to complete the program if he or she remained enrolled half-time.
  - ❖ If the student was initially enrolled **full-time**, the **scheduled to complete** date will be based on the amount of time normally required by a full-time student to complete the program, as specified in the school's enrollment contract, catalog, or other materials.
- Fill out Column 6 of the PR spreadsheet: for each student, provide beginning and ending **enrollment dates**.
- Fill out Column 7 of the PR spreadsheet: if the student was successfully placed in employment according to at least one of the following two conditions, enter X. (If not, do not make an entry.)

  (1) A student is successfully placed if he or she is employed in an occupation for which your school provided training on the day following 12 months after the date of the student's last day of attendance at your school.

  OR

(2) A student is successfully placed if he or she was employed in an occupation for which your school provided training for at least 13 weeks (91 days) before the day following 12 months after the date of the student's last day of attendance at your school.

The 13 weeks of employment can include relevant employment any time **after** the student's **beginning** enrollment date. But the 13 weeks must be completed **before** the day following 12 months after the student's last day of attendance.



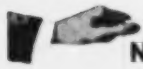
Note A student **cannot** be counted as successfully placed according to either of these two conditions if your school is the employer.[24]

- Fill out Column 8 of the PR spreadsheet: for each student successfully placed, provide the **beginning and ending dates** of the employment that qualifies the student as successfully placed.

- Fill out Column 9 of the PR spreadsheet: for each student successfully placed, provide the student's **job title** in the employment that qualifies the student as successful placement. Do not use abbreviations.

If the Department cannot verify a student's successful placement on the basis of the information your school provides, the student will be removed from the count of successfully placed students.

- Fill out Column 10 of the PR spreadsheet: for each student successfully placed, provide the **name**, **address**, and **telephone number** of the **employer** with which the student was successfully placed.



Note If the employer's place of business is closed, you must provide the Department with a notarized statement from the student verifying the place of employment, job title, dates of employment, and how the student may be contacted.

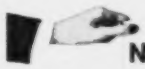
- Complete Box C by counting the number of Xs that appear in Column 7. The total number of Xs will be **C1** in the calculation. Record this number in Box C on the PR spreadsheet. This is the number of students who were successfully placed in employment.

- Count the total number of students listed in the PR spreadsheet by counting the number of entries in Column 1. The total number of students will be **C2** in the calculation. Record this number in Box C on the

24. 34 CFR § 668.17(c)(1)(ii)(B)(2)

PR spreadsheet. This is the number of students initially enrolled on at least a half-time basis who were originally scheduled to complete their programs during the selected 12-month period and remained in the program beyond the point that they would have received a 100 percent tuition refund from your school.

- Calculate **100 x C1/C2** and record the result in Box C on the PR spreadsheet. **This percentage is your school's placement rate**.



Note As part of a successful appeal, your school's placement rate must be 50.0 percent or greater.

Step 4: Submit your school's properly completed exceptional mitigating circumstances appeal on the basis of economically disadvantaged and placement rates.

Important: At this point, schools have **30 calendar days** to act.

- Within **30 calendar days** of your school receiving notification that it is subject to sanctions, mail your school's exceptional mitigating circumstances appeal to the Department.

- The Department recommends that your school submit its properly completed exceptional mitigating circumstances appeal in a single, tabbed binder, and mail it return receipt requested or via commercial overnight delivery.

  The recommended tabs and materials are shown on the next page.

Tab 1

The section behind Tab 1 contains:

- A letter on your school's letterhead with—
  - your school's OPE ID number;
  - a statement indicating that your school is submitting an exceptional mitigating circumstances appeal based on your economically disadvantaged rate and your placement rate;
  - the fiscal year to which the appeal applies;
  - a certification statement that all information in the appeal is true and correct. See 34 CFR § 668.17(c)(6);
    AND
  - a signature by your school's President/CEO/Owner, followed by a signature block providing the signer's name and job title.

(See sample letter **FY 1996 Exceptional Mitigating Circumstances Appeal on the Basis of Economically Disadvantaged and Placement Rates**, on page 135.)

Tab 2

The section behind Tab 2 contains:

- A completed EDR spreadsheet with a list of all students used to calculate your economically disadvantaged rate. (Use spreadsheet **FY 1996 Economically Disadvantaged Rate**, on page 139, or its equivalent.)

Tab 3

The section behind Tab 3 contains:

- A completed PR spreadsheet with a list of all students used to calculate your placement rate. (Use spreadsheet **FY 1996 Placement Rate**, on page 143, or its equivalent.)

Step 5: Submit an independent auditor's attestation.

Important: At this point, schools have **60 calendar days** to act.

More information on the auditor's attestation is provided on page 104.

- Within **60 calendar days** of your school receiving notification that it is subject to sanctions, mail an independent auditor's attestation of your school's exceptional mitigating circumstances appeal on the basis of its economically disadvantaged and placement rates to the Department.
- The attestation must be in the form of a letter on the independent auditor's letterhead with—
  - your school's name;
  - your school's OPE ID number;
  - the fiscal year to which the appeal applies;
  - the auditor's opinion on management's assertion that the information contained in the appeal is complete, accurate, and determined in accordance with the Department's regulations in 34 CFR § 668.17 (c)(1)(ii);

    AND
  - the independent auditor's signature, followed by a signature block providing the signer's name and job title.

(See sample letter **Independent Accountant's Attestation Report for Exceptional Mitigating Circumstances Appeal on the Basis of FY 1996 Economically Disadvantaged and Placement Rates** on page 144.)

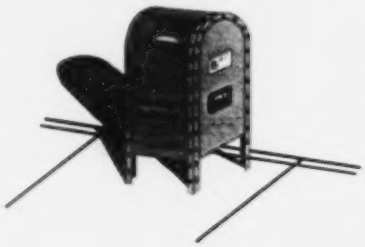
Note

If a school fails to meet the regulatory time frames for the appeal and/or attestation, the Department will NOT review its appeal.[25] **The Department's decision is final and no further administrative review is provided.**

25. 34 CFR § 668.17(c)(1)

If sent by commercial overnight mail/courier delivery, send your school's exceptional mitigating circumstances appeal to:

U.S. Department of Education
Default Management Division
ATTN: Exceptional Mitigating
Circumstances Appeals
ROB-3, Room 3905
7th and D Streets, SW
Washington, DC 20202



The Department will not accept any appeal correspondence by facsimile (fax) or e-mail.

The Department recommends sending all correspondence return receipt requested or via commercial overnight mail/courier delivery.

If sent by U.S. Postal Service, send your school's exceptional mitigating circumstances appeal to:

U.S. Department of Education
Default Management Division
ATTN: Exceptional Mitigating
Circumstances Appeals
ROB-3, Room 3905
600 Independence Avenue, SW
Washington, DC 20202-5353

The Department accepts deliveries from commercial couriers and/or hand deliveries Monday through Friday, 8:00 a.m. to 4:30 p.m. (Eastern Time).

The Department will review only the information submitted with the exceptional mitigating circumstances appeal and will not consider information submitted after the regulatory deadlines. The Department will send the school written notification of its decision. **The Department's decision is final and no further administrative review is provided.**

U.S. Department of Health and Human Services Poverty Levels Based on Family Size

State	Year	Family Size	
		One person	Each additional person
Alaska	1992	$8,500	+$2,980
	1993	$8,700	+$3,080
	1994	$9,200	+$3,100
	1995	$9,340	+$3,200
Hawaii	1992	$7,830	+$2,740
	1993	$8,040	+$2,820
	1994	$8,470	+$2,850
	1995	$8,610	+$2,940
All Other States	1992	$6,810	+$2,380
	1993	$6,970	+$2,460
	1994	$7,360	+$2,480
	1995	$7,470	+$2,560

Our Town A&M University

1212 Bell Lane
Leonardtown, Wisconsin 12345-6789
(123) 456-7890

Sample Letter

November 20, 1998

U.S. Department of Education
Default Management Division
ATTN: Exceptional Mitigating Circumstances Appeals
ROB-3, Room 3905
600 Independence Avenue, SW
Washington, DC 20202-5353

OPE ID#: [*insert OPE ID#*]

Subject: FY 1996 Exceptional Mitigating Circumstances Appeal on the Basis of Economically Disadvantaged and Placement Rates

To Whom It May Concern:

Our Town A&M University, **OPE ID #** [*insert OPE ID#*], is submitting its FY 1996 exceptional mitigating circumstances appeal based on our economically disadvantaged and placement rates.

I, the undersigned, certify under penalty of perjury, that our economically disadvantaged rate is [*insert ED rate XX.X%*], our placement rate is [*insert placement rate YY.Y%*], and that all other information submitted in support of this exceptional mitigating circumstances appeal is true and correct.

Sincerely,

John Doe

John Doe, President
Our Town A&M University

Enclosures

Appealing Exceptional Mitigating Circumstances Based on the Economically Disadvantaged Rate

How to fill out FY 1996 Economically Disadvantaged Rate spreadsheet

Count and list the students who will be included in the calculation of your school's economically disadvantaged rate using a spreadsheet software application such as Lotus 1-2-3, Supercalc, or Excel. The resulting spreadsheet must be sent to the Department.

The spreadsheet width should be on one 8 1/2 x 11 page in a landscape (horizontal) layout. A sample spreadsheet follows these instructions.

Header: Enter **FY 1996 Economically Disadvantaged Rate** in the center of the header area. In the left-hand area, enter your school's name, your school's OPE ID number, and your school's selected 12-month period.

You must use a 12-month period that has a start date NO EARLIER THAN April 2, 1994 and NO LATER THAN October 1, 1994.

Footer: Enter the date the appeal was prepared in the left side of the footer area. Set up automatic pagination in the right side of the footer area so that the specific pages and the total number of page numbers show on each page (example: page 1 of 10 pages).

On Rows 1, 2, 3, and 4 use the draw tool to draw a rectangle covering lines A1 to F4. Using the text-box tool, draw another box for **Box B** information. In this box, enter the number of economically disadvantaged students (from Column 4) **[B1]**, the number of regular students (listed in Column 1) **[B2]**, and your school's economically disadvantaged rate **[100 x B1/B2]**. See the instructions for Box B information on the following page.

On Row 5, enter **exactly** the same column names in exactly the same order as listed on the sample spreadsheet.

On Row 6 and below, include the following data for each student who will be included in your school's economically disadvantaged rate.

Column 1: Enter the student's Social Security number using hyphens to separate the numbers (example: 000-00-0000) of all of your regular students who were enrolled during the selected 12-month period. Sort in numerical order when ready to print the spreadsheet.

Column 2: Enter the student's name.

Column 3: Enter MM/DD/YYYY (month, day, and year) to identify the student's beginning and ending enrollment dates.

Column 4: Enter X if student was from a disadvantaged economic background during the selected 12-month period. Leave blank if student was not economically disadvantaged.

Appealing Exceptional Mitigating Circumstances Based on the Economically Disadvantaged Rate

How to fill out FY 1996 Economically Disadvantaged Rate spreadsheet (cont'd)

Instructions (cont'd):

Fill out Column 5 or Column 6 of the spreadsheet: For each student from a disadvantaged economic background, provide:

EITHER

Column 5: the **EFC** and the **award year** that generally coincide with the selected 12-month period (in Columns 5a and 5b)

OR

Column 6: the **AGI**, **family size**, and **calendar year** that generally coincide with the selected 12-month period (in Columns 6a, 6b, and 6c)

Instructions for Box B (located in the shaded area):

- Count the number of X's that appear in Column 4. This is **B1** in the calculation. Record this number in Box B of the Economically Disadvantaged Rate spreadsheet.
- Count the number of students listed in Column 1. The total number of students will be **B2** in the calculation. Record this number in Box B of the Economically Disadvantaged Rate spreadsheet.
- Calculate **100 x B1/B2** and record the result in Box B on the EDR spreadsheet. **This percentage is your school's economically disadvantaged rate.**

School Name
OPE ID Number
12-Month Period **Sample** 10/1/1994-9/30/1995

FY 1996
Economically Disadvantaged Rate

Note: This is a sample spreadsheet (See instructions.)

Box B

No. of Economically Disadvantaged Students (from Column 4) [B1] ____
No. of Regular Students (from Column 1) [B2] ____
Economically Disadvantaged Rate [100 x B1/B2] ____%

1. Student's SSN (sort in numerical order)	2. Student's name	3. Student's enrollment dates (from MM/DD/YYYY to MM/DD/YYYY)	4. If student qualifies as economically disadvantaged, enter X	5a. If column 4 is marked and economically disadvantaged is based on EFC, enter EFC	5b. If column 5a has an EFC, enter EFC's award year	6a. If column 4 is marked and economically disadvantaged is based on AGI, enter AGI	6b. If column 6a has an AGI, enter family size	6c. If column 6a has an AGI, enter calendar year
111-11-1111	Jane Smith	3/15/1994-3/10/1995	X	0	1994/1995			
222-22-2222	John Doe	6/16/1994-10/3/1995	X			$4,200	1	1993
333-33-3333	Chris Jones	12/15/1994-3/4/1995						

Appealing Exceptional Mitigating Circumstances Based on the Placement Rate

How to fill out FY 1996 Placement Rate spreadsheet

Count and list the students who will be included in the calculation of your school's placement rate using a spreadsheet software application such as Lotus 1-2-3, Supercalc, or Excel. The resulting spreadsheet must be sent to the Department.

The spreadsheet width should be on one 8 1/2 x 11 page in a landscape (horizontal) layout. A sample spreadsheet follows these instructions.

Header: Enter **FY 1996 Placement Rate** in the center of the header area. In the left-hand area, enter your school's name, your school's OPE ID number, and your school's selected 12-month period.

Note **You must use the same 12-month period as on the economically disadvantaged spreadsheet.**

Footer: Enter the date the appeal was prepared in the left side of the footer area. Set up automatic pagination in the right side of the footer area so that the specific pages and the total number of page numbers show on each page (example: page 1 of 10 pages).

On Rows 1, 2, 3, and 4 use the draw tool to draw a rectangle covering lines A1 to J4. Using the text-box tool, draw another box for **Box C** information. In this box, enter the number of students successfully placed (from Column 7) **[C1]**, the number of entries listed in Column 1 **[C2]**, and your school's placement rate **[100 x C1/C2]**. See the instructions for Box C information on the following page.

On Row 5, enter **exactly** the same column names in **exactly** the same order as listed on the sample spreadsheet.

On Row 6 and below, include the following data for each student who will be included in your school's placement rate.

Column 1: Enter the student's Social Security number using hyphens to separate the numbers (example: 000-00-0000) of all of your regular students who meet the conditions identified on page 123. Sort in numerical order when ready to print the spreadsheet.

Column 2: Enter the student's name.

Column 3: Enter each student's address.

Column 4: Enter each student's program of study. Do not use abbreviations.

Column 5: Enter MM/DD/YYYY (month, day, and year) to identify the date that each student was originally scheduled, at the time of enrollment, to complete his or her program of study.

Column 6: Enter MM/DD/YYYY (month, day, and year) to identify the beginning and ending dates of the student's enrollment.

Appealing Exceptional Mitigating Circumstances Based on the Placement Rate

How to fill out FY 1996 Placement Rate spreadsheet (cont'd)

Column 7: Enter X if the student was successfully placed in employment according to at least one of the following two conditions. Leave blank if at least one condition was not met.

(1) A student is successfully placed if he or she is employed in an occupation for which your school provided training on the day following 12 months after the date of the student's last day of attendance at your school,

OR

(2) A student is successfully placed if he or she was employed in an occupation for which your school provided training for at least13 weeks before the day following 12 months after the date of the student's last day of attendance at your school.

Note A student cannot be counted as successfully placed according to either of these two conditions if your school is the employer.

Column 8: Enter the MM/DD/YYYY to identify the beginning and ending dates of the employment that qualifies as successful placement. (If the student is still employed by the same employer, enter MM/DD/YYYY to **present**.)

Column 9: Enter the student's job title in the employment that qualifies as successful placement. Do NOT use abbreviations.

Column 10: Enter the name, address, and telephone number of the employer with which the student was successfully placed.

Instructions for Box C (located in the shaded area):

- Count the number of Xs that appear in Column 7. The total number of Xs will be **C1** in the calculation. Record this number in **Box C** on the PR spreadsheet. This is the number of students who were successfully placed in employment.
- Count the number of students listed in the PR spreadsheet by counting the number of entries in Column 1. The total number of students will be **C2** in the calculation. Record this number in **Box C** in the PR spreadsheet. This is the number of students that were scheduled to complete their programs during the selected 12 month period.
- Calculate **100 x C1/C2** and record the result in **Box C** on the PR spreadsheet. **This percentage is your school's placement rate.**

School Name
OPE ID Number
12-Month Period: **Sample** 10/1/1994-9/30/1995

FY 1996
Placement Rate

Note: This is a sample spreadsheet (See instructions.)

Box C

No. of Students Successfully Placed (from column 7) [C1] ____
No. of Students Originally Scheduled to Complete Programs (from column 1) [C2] ____
Placement Rate [100 x C1/C2] ____%

1. Student's SSN (sort in numerical order)	2. Student's name	3. Student's address	4. Student's program of study (do NOT use abbreviations)	5. Date that student was originally scheduled to complete program of study MM/DD/YYYY	6. Student's enrollment dates (from MM/DD/YYYY to MM/DD/YYYY)	7. If student was successfully placed in employment, enter X	8. If student was successfully placed, provide beginning and ending dates of employment (from MM/DD/YYYY to MM/DD/YYYY)	9. If student was successfully placed, provide student's job title (do NOT use abbreviations)	10. If student was successfully placed, provide employer's name address, and phone number
111-11-1111	Jane Smith	15 Oak Dr Phoenix, AZ 11111	Cosmetology	4/15/1995	3/15/1994-3/10/1995	X	4/10/1995-present	Hair Stylist	Jane's Beauty Shop 30 First Lane Phoenix, AZ 55555 (888) 555-1111
333-33-3333	Chris Jones	10 Elm Dr Luaby, MD 22222	Cosmetology	9/15/1995	12/15/1994-3/4/1995				
444-44-4444	James John	20 Pine Dr Atlanta, GA 33333	Cosmetology	10/15/1994	10/1/1993-9/15/1994	X	9/1/1995-present	Hair Stylist	John's Beauty Shop 40 Third Lane Atlanta, GA 66666 (888) 555-2222

MM/DD/YYYY 155 [send to U.S. Department of Education] 156 Page __ of __ pages

GLOBAL ACCOUNTING, INC.

1212 Main Street
Dunkirk, Maine 11111-2222
(111) 111-1111

Sample

December 15, 1998

U.S. Department of Education
Default Management Division
ATTN: Exceptional Mitigating Circumstances Appeals
ROB 3, Room 3905
600 Independence Avenue, SW
Washington, DC 20202-5353

OPE ID#: [*insert OPE ID#*]

Subject: Independent Accountant's Attestation Report for Exceptional Mitigating Circumstances Appeal on the Basis of FY 1996 Economically Disadvantaged and Placement Rates.

To Whom It May Concern:

We have examined management's assertion included in its representation letter dated, [*insert date*], stating that the information contained in [*insert school's name*]'s **OPE ID #** [*insert OPE ID#*] exceptional mitigating circumstances appeal based on its economically disadvantaged and placement rates, is complete, accurate and determined in accordance with the requirements of 34 CFR § 668.17(c). As discussed in that representation letter, management is responsible for [*insert school's name*]'s compliance with those requirements. Our responsibility is to express an opinion on management's assertion about the institution's compliance based on our examination.

Our examination was made in accordance with standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence about [*insert school's name*]'s compliance with 34 CFR § 668.17(c) and performing such other procedures as we considered necessary in the circumstances. We believe our examination provides a reasonable basis for our opinion. Our examination does not provide a legal determination on [*insert school's name*]'s compliance with specified requirements.

In our opinion, management's assertion that the information contained in [*insert school's name*]'s appeal, dated [*insert date*] which reports that [*insert school's name*] has an economically disadvantaged rate of [*insert EDR XX.X %*] and a placement rate of [*insert PR YY.Y%*] for the twelve-month period beginning on [*insert MM/DD/YYYY*] and ending on [*insert MM/DD/YYYY*] is complete, accurate, and determined in accordance with the requirements set forth in 34 CFR § 668.17(c), is fairly stated, in all material respects.

This report is intended solely for the information of an audit committee, management, and the U.S. Department of Education. However, this report is a matter of public record and its distribution is not limited.

Respectfully submitted,

Mary Smith

Mary Smith, CPA
President, Global Accounting, Inc.

Economically Disadvantaged and Completion Rates Criteria

QUALIFYING

To file an exceptional mitigating circumstances appeal based on **economically disadvantaged and completion rates**, your school must:

- be subject to sanctions,

  AND

- be a **degree-granting** school,[26]

  AND

- demonstrate that 70.0 percent or more of its regular students enrolled during a selected 12-month period were individuals who came from **disadvantaged economic backgrounds**,[27]

  AND

- demonstrate that 70.0 percent or more of its regular students who were initially enrolled on a full-time basis and who were originally scheduled to complete their programs during the same 12-month period identified above either:

  - **received degrees, or**
  - **transferred to higher level programs, or**
  - **at the end of the 12-month period, remained enrolled and were making satisfactory academic progress (SAP) toward completion of their educational programs.**[28]

If you are not sure whether your school is classified as a degree-granting or non-degree-granting school, please refer to your school's Eligibility and Certification Approval Report generated by the Department's Case Management Division. The telephone number for the Case Management Division is (202) 205-0183.

A school must select a 12-month period that has a start date that is **no earlier than April 2, 1994 and no later than October 1, 1994.**

See page 102 for further information on selecting a 12-month period.

The checklist on the next page summarizes the eligibility criteria for an exceptional mitigating circumstances appeal based on economically disadvantaged and completion rates. Review the checklist to determine your school's eligibility to appeal on the basis of exceptional mitigating circumstances.

26. 34 CFR § 668.17(c)(1)(ii)(B)(*1*)
27. 34 CFR § 668.17(c)(1)(ii)(B)
28. 34 CFR § 668.17(c)(1)(ii)(B)(*1*)

Exceptional Mitigating Circumstances Appeal Based on Economically Disadvantaged and Completion Rates Eligibility Checklist

These appeal criteria are only for **degree-granting** schools.

To be eligible to appeal based on its students' economically disadvantaged rate and completion rate, your school must meet the following criteria:

- ☐ Your school is subject to one of the following sanctions—
  - ○ initial FFEL Program and/or Direct Loan Program loss

    OR
  - ○ extended FFEL Program and/or Direct Loan Program loss

    AND/OR
  - ○ possible action to limit, suspend, or terminate (LS&T) eligibility of all Title IV student financial assistance programs.
- ☐ Your school is a **degree-granting** school that—
  - ○ enrolls 70.0 percent or more of its students from disadvantaged economic backgrounds as described in 34 CFR § 668.17(c)(1)(ii)(B)

    AND
  - ○ can demonstrate that 70.0 percent or more of its students completed their programs as defined in 34 CFR § 668.17(c)(1)(ii)(B)(*1*)

SUBMITTING

How do I calculate the economically disadvantaged rate and the completion rate?

The **economically disadvantaged rate (EDR)**[29] is the following percentage:

$$\text{EDR} = 100 \times \frac{\text{number of regular students enrolled during the selected 12-month period who had an EFC of zero or AGI less than the HHS poverty level [B1]}}{\text{number of regular students enrolled during the selected 12-month period [B2]}}$$

Key:

- EFC: Expected Family Contribution
- AGI: Adjusted Gross Income
- HHS: U.S. Department of Health and Human Services (For poverty level guidelines, see page 157).

Note Information on how to select an acceptable 12-month period is on page 102.

Your school must use the same 12-month period for calculating both rates.

The **completion rate (CR)**[30] is the following percentage:

$$\text{CR} = 100 \times \frac{\text{number of regular students, initially enrolled on a full-time basis and originally scheduled to complete their programs during the selected 12-month period, who } \textit{either}\text{: (1) received degrees, } \textit{or}\text{ (2) transferred to higher level programs, } \textit{or}\text{ (3) at the end of the 12-month period, remained enrolled and were making satisfactory academic progress toward completion of their educational programs [D1]}}{\text{number of regular students who were initially enrolled on a full-time basis and were originally scheduled to complete their programs during the selected 12-month period [D2]}}$$

29. 34 CFR § 668.17(c)(1)(ii)(B)
30. 34 CFR § 668.17(c)(1)(ii)(B)(*1*)

To succeed on an exceptional mitigating circumstances appeal on the basis of your school's economically disadvantaged and completion rates, your school must have an economically disadvantaged rate of 70.0 percent or greater and a completion rate of 70.0 percent or greater.

How does my school prepare and submit an exceptional mitigating circumstances appeal based on its economically disadvantaged and completion rates to the Department?

Refer to the beginning of this section for a detailed discussion regarding which schools are eligible to appeal based on the economically disadvantaged and completion rates.

Step 1: Review your school's official cohort default rate notification letter and this Guide to determine if your school is eligible to submit an exceptional mitigating circumstances appeal based on its economically disadvantaged and completion rates.

Step 2: Calculate and list the following data to support your school's economically disadvantaged rate.

A "regular student" is defined as a person who is enrolled, or accepted for enrollment, in an eligible program at an eligible postsecondary institution for the purpose of obtaining a degree, certificate, or other recognized educational credential offered by that institution as defined in 34 CFR § 600.2.

- Use the spreadsheet **FY 1996 Economically Disadvantaged Rate** (EDR) on page 161 or its equivalent to count and list the students who will be included in the calculation of your school's economically disadvantaged rate.

In your list of "regular students" you must include students who:

- began enrollment before the 12-month period and ended enrollment during or after the 12-month period,

  AND/OR

- began enrollment during the 12-month period and ended enrollment during or after the 12-month period.

- On the EDR spreadsheet, fill out your school's name and OPE ID Number.
- Select an acceptable 12-month period and enter it on the EDR spreadsheet (see page 102 for details on selecting an acceptable 12-month period).
- Fill out Column 1 of the EDR spreadsheet: **in numerical order**, list the Social Security numbers of all your regular students enrolled during any part of the selected 12-month period. **No student will be counted more than once in the calculation.**
- Fill out Column 2 of the EDR spreadsheet: for each Social Security number, list the student's name.
- Fill out Column 3 of the EDR spreadsheet: for each student, provide beginning and ending **enrollment dates**. For all enrollment dates, include the month, date, and year (MM/DD/YYYY).

- Fill out Column 4 of the EDR spreadsheet: if the student was from an economically disadvantaged background during the selected 12-month period, as described below, enter X. (If not, leave blank.)

- If you enter X for a student in Column 4, *either*

  (1) the student must have an EFC of zero for any award year that generally coincides with the 12-month period,

  OR

  (2) the student and, if applicable, his or her parents or spouse must have an adjusted gross income (AGI) less than the Health and Human Services (HHS) poverty levels for any calendar year that generally coincides with the 12-month period. The HHS poverty levels are shown on page 157.

An award year begins on July 1 and ends on June 30. The 1993-1994 award year began July 1, 1993 and ended June 30, 1994.

EFC TEST

- To determine whether a student qualifies as economically disadvantaged under the **EFC test**, first identify which award years overlap by at least one day with your school's selected 12-month period. If the student had a zero EFC in any of the overlapping award years, he or she qualifies as economically disadvantaged. For example:

  - Selected 12-month period: April 2, 1994 to April 1, 1995

  - Acceptable (overlapping) award years: 1993-1994 or 1994-1995

A award year "generally coincides" with a 12-month period if they overlap by at least one day.

Q. What if a student has an EFC of zero, but the award year does not overlap the 12-month period?

A. The student is not considered economically disadvantaged unless he or she has a qualifying AGI that generally coincides with the 12-month period.

AGI TEST

- If the student does not qualify based on EFC, he or she may still qualify based on AGI. To determine if the student is economically disadvantaged on the basis of the **AGI test**, identify which calendar years could be used to determine an EFC for award year that "generally coincides" with the selected 12-month period.

A calendar year "generally coincides" with a 12-month period if the calendar year associated with the AGI could have been used to determine a student's EFC for an award year that "generally coincides" with a 12-month period chosen by the school.

- If the student and, if applicable, his or her parents or spouse had an AGI below the HHS poverty level in any of the acceptable calendar years, the student qualifies as economically disadvantaged under the AGI test. For example:

  - Selected 12-month period: October 1, 1994 to September 30, 1995
  - Acceptable (overlapping) award years: 1994-1995 or 1995-1996
  - Acceptable calendar years: 1993, 1994, 1995

To determine acceptable calendar years, first determine acceptable award years.

Note The 1993, 1994 and 1995 calendar years are acceptable calendar years because the 1993 and/or 1994 calendar year could be used to determine an EFC for the 1994/1995 award year. The 1994 and/or 1995 calendar year could be used to determine an EFC for the 1995/1996 award year.

- Fill out Column 5 or Column 6 of the EDR spreadsheet: for each student from a disadvantaged economic background, provide:

  EITHER

  - the **EFC** and the **award year** that generally coincides with the selected 12-month period (in Columns 5a and 5b)

  OR

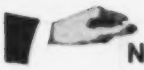
  - the **AGI**, **family size**, and **calendar year** that generally coincides with the selected 12-month period (in Columns 6a, 6b, and 6c)

Students with an EFC of zero must have an award year listed on the spreadsheet to be included in the numerator of the calculation.

A student with an AGI that meets the poverty threshold must have a family size and calendar year listed on the spreadsheet to be included in the numerator of the calculation.

- Complete Box B by counting the number of Xs that appear in Column 4. The total number of Xs will be **B1** in the calculation. Record this number in Box B on the EDR spreadsheet.
- Count the total number of students listed in the EDR spreadsheet by counting the number of entries in Column 1. The total number of students will be **B2** in the calculation. Record this number in Box B on the EDR spreadsheet.

- Calculate **100 x B1 / B2** and record the result in Box B on the EDR spreadsheet. **This percentage is your school's economically disadvantaged rate**.



Note As part of a successful appeal, your school's economically disadvantaged rate must be 70.0 percent or greater.

Step 3: Calculate and list data to support your school's completion rate.

- Use the spreadsheet **FY 1996 Completion Rate** (CR) located on page 165 or an equivalent to count and list the students who will be included in the calculation of your school's completion rate.
- On the CR spreadsheet, fill out your school's name and OPE ID Number.
- **Enter and use the same 12-month period as on the FY 1996 Economically Disadvantaged Rate spreadsheet.**
- Fill out Column 1 of the CR spreadsheet: **in numerical order**, list the Social Security numbers of **all your students who meet the following conditions**:
  - regular students who were initially enrolled on a **full-time basis** at your school

    AND
  - at the time of their enrollment, were originally scheduled to complete their programs during the selected 12-month period.

Note No student will be counted more than once in the calculation.

- Fill out Column 2 of the CR spreadsheet: for each Social Security number, list the student's name.
- Fill out Column 3 of the CR spreadsheet: provide each student's program of study. Do not use abbreviations.

A "**regular student**" is defined as **a person who is enrolled**, or **accepted for enrollment**, in an eligible program at an eligible postsecondary institution for the purpose of obtaining a degree, certificate, or other recognized educational credential offered by that institution as defined in 34 CFR § 600.2

The "**scheduled to complete**" date will be based on the amount **of time normally required by a** full-time student to complete the program, as specified in the school's enrollment contract, catalog, or other materials.[31]

31. 34 CFR § 668.17(c)(2)

All dates included in the CR spreadsheet must include month, day, and year.

- Fill out Column 4 of the CR spreadsheet: provide the date that each student was originally scheduled, at the time of enrollment, to complete his or her program of study.
- Fill out Column 5 of the CR spreadsheet: for each student, provide beginning and ending **enrollment dates**.
- Fill out Column 6 of the CR spreadsheet: if the student meets one of the following three **successful completion** conditions, enter X. (If not, leave blank.)

  (1) The student received a degree at your school.

  OR

  (2) The student transferred from your school to a higher level educational program.

  OR

  (3) The student remained enrolled at your school at the end of the selected 12-month period and was making satisfactory academic progress (SAP) toward completion of his or her educational program.

- Fill out Column 7 of the CR spreadsheet: if a student received a degree from your school, provide the **date the degree was received**.
- Fill out Column 8a of the CR spreadsheet: if a student transferred to a higher level educational program, provide the **date the student transferred**.
- Fill out Column 8b of the CR spreadsheet: for each student with information listed in Column 8a, provide the **name and address of the *school* to which he or she transferred**.
- Fill out Column 8c of the CR spreadsheet: for each student with information listed in Column 8a, provide the **name of the *higher level educational program* to which he or she transferred**. Do not use abbreviations.

- Fill out Column 9 of the CR spreadsheet: for each student who at the end of the selected 12-month period remained enrolled and was making satisfactory academic progress, enter X.

- Complete Box D by counting the number of Xs that appear in Column 6. The total number of Xs will be **D1** in the calculation. Record this number in Box D on the CR spreadsheet. This is the number of students who have successfully met completion conditions.

- Count the total number of students listed in the CR spreadsheet by counting the number of entries in Column 1. The total number of students will be **D2** in the calculation. Record this number in Box D on the CR spreadsheet. This is the number of students originally scheduled to complete their programs during the selected 12-month period.

- Calculate **100 x D1 / D2** and record the result in Box D on the CR spreadsheet. **This percentage is your school's completion rate.**

Note As part of a successful appeal, your completion rate must be 70.0 percent or greater.

Step 4: Submit your properly completed exceptional mitigating circumstances appeal based on economically disadvantaged and completion rates.

Important: At this point, schools have **30 calendar days** to act.

- Within **30 calendar days** of your school receiving notification that it is subject to sanctions, mail your exceptional mitigating circumstances appeal to the Department.

- The Department recommends that your school submit its properly completed exceptional mitigating circumstances appeal in a single, tabbed report binder, and mail it return receipt requested or via overnight delivery.

  The recommended tabs and materials are shown on the next page.

Tab 1

The section behind Tab 1 contains:

- A letter on your school's letterhead with—
  - your school's OPE ID number;
  - a statement indicating that your school is submitting an exceptional mitigating circumstances appeal based on your economically disadvantaged rate and your completion rate;
  - the fiscal year to which the appeal applies;
  - a certification statement that all information in the appeal is true and correct. See 34 CFR § 668.17(c)(6);

    AND
  - a signature by your school's President/CEO/Owner, followed by a signature block providing the signer's name and job title.

(See sample letter **FY 1996 Exceptional Mitigating Circumstances Appeal Based on Economically Disadvantaged and Completion Rates**, on page 158.)

Tab 2

The section behind Tab 2 contains:

- A completed EDR spreadsheet with a list of all students used to calculate your economically disadvantaged rate. (Use spreadsheet **FY 1996 Economically Disadvantaged Rate**, on page 161, or its equivalent.)

Tab 3

The section behind Tab 3 contains:

- A completed CR spreadsheet with a list of all students used to calculate your completion rate. (Use spreadsheet **FY 1996 Completion Rate**, on page 165, or its equivalent.)

Step 5: Submit an independent auditor's attestation.

- Within **60 calendar days** of your school receiving notification that it is subject to sanctions, mail an independent auditor's attestation of your school's exceptional mitigating circumstances appeal based on its economically disadvantaged and completion rates to the Department.

- The attestation should be in the form of a letter on the independent auditor's letterhead with—

  - your school's name;
  - your school's OPE ID number;
  - the fiscal year to which the appeal applies;
  - the auditor's opinion on management's assertion that the information contained in the appeal is complete, accurate, and determined in accordance with the Department's regulations in 34 CFR § 668.17 (c)(1)(ii).

    AND

  - the independent auditor's signature, followed by a signature block providing the signer's name and job title.

  (See sample letter **Independent Accountant's Attestation Report for Exceptional Mitigating Circumstances Appeal Based on FY 1996 Economically Disadvantaged and Completion Rates**, on page 166.)

If a school fails to meet the regulatory time frames for the appeal and/or attestation, the Department will NOT review its appeal.[32] **The Department's decision is final and no further administrative review is provided.**

Important: At this point, schools have **60 calendar days** to act.

More information on the auditor's attestation is provided on page 104.

32. 34 CFR § 668.17(c)(1)

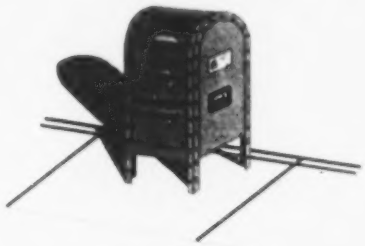
The Department will not accept any appeal correspondence by facsimile (fax) or e-mail.

The Department recommends sending all correspondence return receipt requested or via commercial overnight mail/courier delivery.

The Department accepts deliveries from commercial couriers and/or hand deliveries Monday through Friday, 8:00 a.m. to 4:30 p.m. (Eastern Time).

If sent by commercial overnight mail/courier delivery, send your school's exceptional mitigating circumstances appeal to:

U.S. Department of Education
Default Management Division
ATTN: Exceptional Mitigating
Circumstances Appeals
ROB-3, Room 3905
7th and D Streets, SW
Washington, DC 20202



If sent by U.S. Postal Service, send your school's exceptional mitigating circumstances appeal to:

U.S. Department of Education
Default Management Division
ATTN: Exceptional Mitigating
Circumstances Appeal
ROB-3, Room 3905
600 Independence Avenue, SW
Washington, DC 20202-5353

The Department will review only the information submitted with the exceptional mitigating circumstances appeal and will not consider information submitted after the regulatory deadlines. The Department will send the school written notification of its decision. **The Department's decision is final and no further administrative review is provided.**

U.S. Department of Health and Human Services Poverty Levels Based on Family Size

State	Year	Family Size	
		One person	Each additional person
Alaska	1992	$8,500	+$2,980
	1993	$8,700	+$3,080
	1994	$9,200	+$3,100
	1995	$9,340	+$3,200
Hawaii	1992	$7,830	+$2,740
	1993	$8,040	+$2,820
	1994	$8,470	+$2,850
	1995	$8,610	+$2,940
All Other States	1992	$6,810	+$2,380
	1993	$6,970	+$2,460
	1994	$7,360	+$2,480
	1995	$7,470	+$2,560

Our Town A&M University

1212 Bell Lane
Leonardtown, Wisconsin 12345-6789
(123) 456-7890

Sample Letter

November 20, 1998

U.S. Department of Education
Default Management Division
ATTN: Exceptional Mitigating Circumstances Appeals
ROB-3, Room 3905
600 Independence Avenue, SW
Washington, DC 20202-5353

OPE ID#: [*insert OPE ID#*]

Subject: FY 1996 Exceptional Mitigating Circumstances Appeal Based on Economically Disadvantaged and Completion Rates

To Whom It May Concern:

Our Town A&M University, **OPE ID #** [*insert OPE ID#*], is submitting its FY 1996 exceptional mitigating circumstances appeal based on our economically disadvantaged and completion rates.

I, the undersigned, certify under penalty of perjury, that our economically disadvantaged rate is [*insert ED rate XX.X%*], our completion rate is [*insert completion rate YY.Y%*], and that all other information submitted in support of this exceptional mitigating circumstances appeal is true and correct.

Sincerely,

John Doe

John Doe, President
Our Town A&M University

Enclosures

Appealing Exceptional Mitigating Circumstances Based on the Economically Disadvantaged Rate

How to fill out FY 1996 Economically Disadvantaged Rate spreadsheet

Count and list the students who will be included in the calculation of your school's economically disadvantaged rate using a spreadsheet software application such as Lotus 1-2-3, Supercalc, or Excel. The resulting spreadsheet must be sent to the Department.

The spreadsheet width should be on one 8 1/2 x 11 page in a landscape (horizontal) layout. A sample spreadsheet follows these instructions.

Header: Enter **FY 1996 Economically Disadvantaged Rate** in the center of the header area. In the left-hand area, enter your school's name, your school's OPE ID number, and your school's selected 12-month period.

Note **You must use a 12-month period that has a start date NO EARLIER THAN April 2, 1994 and NO LATER THAN October 1, 1994.**

Footer: Enter the date the appeal was prepared in the left side of the footer area. Set up automatic pagination in the right side of the footer area so that the specific pages and the total number of page numbers show on each page (example: page 1 of 10 pages).

On Rows 1, 2, 3, and 4 use the draw tool to draw a rectangle covering lines A1 to F4. Using the text-box tool, draw another box for **Box B** information. In this box, enter the number of economically disadvantaged students (from Column 4) **[B1]**, the number of regular students (listed in Column 1) **[B2]**, and your school's economically disadvantaged rate **[100 x B1/B2]**. See the instructions for Box B information on the following page.

On Row 5, enter **exactly** the same column names in **exactly** the same order as listed on the sample spreadsheet.

On Row 6 and below, include the following data for each student who will be included in your school's economically disadvantaged rate.

Column 1: Enter the student's Social Security number using hyphens to separate the numbers (example: 000-00-0000) of all of your regular students who were enrolled during the selected 12-month period. Sort in numerical order when ready to print the spreadsheet.

Column 2: Enter the student's name.

Column 3: Enter MM/DD/YYYY (month, day, and year) to identify the student's beginning and ending enrollment dates.

Column 4: Enter X if student was from a disadvantaged economic background during the selected 12-month period. Leave blank if student was not economically disadvantaged.

Appealing Exceptional Mitigating Circumstances Based on the Economically Disadvantaged Rate

How to fill out FY 1996 Economically Disadvantaged Rate spreadsheet (cont'd)

Instructions (con't)

Fill out Column 5 or Column 6 of the spreadsheet: For each student from a disadvantaged economic background, provide:

EITHER

Column 5: the **EFC** and the **award year** that generally coincide with the selected 12-month period (in Columns 5a and 5b)

OR

Column 6: the **AGI**, **family size**, and **calendar year** that generally coincide with the selected 12-month period (in Columns 6a, 6b, and 6c)

Instructions for Box B (located in the shaded area):

- Count the number of X's that appear in Column 4. This is **B1** in the calculation. Record this number in Box B of the Economically Disadvantaged Rate spreadsheet.
- Count the number of students listed in Column 1. The total number of students will be **B2** in the calculation. Record this number in Box B of the Economically Disadvantaged Rate spreadsheet.
- Calculate **100 x B1/B2** and record the result in Box B on the EDR spreadsheet. **This percentage is your school's economically disadvantaged rate.**

School Name
OPE ID Number
12-Month Period: **Sample** 4/2/1994-4/1/1995

FY 1996
Economically Disadvantaged Rate

Note: This is a sample spreadsheet. (See instructions.)

Box B

No. of Economically Disadvantaged Students (from Column 4) [B1] ____
No. of Regular Students (from Column 1) [B2] ____
Economically Disadvantaged Rate [100 x B1/B2] ____%

1. Student's SSN (sort in numerical order)	2. Student's name	3. Student's enrollment dates (from MM/DD/YYYY to MM/DD/YYYY)	4. If student qualifies as economically disadvantaged, enter X	5a. If column 4 is marked and economically disadvantaged is based on EFC, enter EFC	5b. If column 5a has an EFC, enter EFC's award year	6a. If column 4 is marked and economically disadvantaged is based on AGI, enter AGI	6b. If column 6a has an AGI, enter family size	6c. If column 6a has an AGI, enter calendar year
111-11-1111	Judy Jones	1/15/1994-1/10/1995	X	0	1993/1994			
222-22-2222	James Smith	5/16/1994-7/15/1994	X			$2,500	1	1993
333-33-3333	Jane Johns	2/14/1994-5/15/1995						
444-44-4444	Helen Carr	4/10/1993-6/20/1995						

MM/DD/YYYY 176 [send to U.S. Department of Education] Page __ of __ pages 177

Appealing Exceptional Mitigating Circumstances Based on the Completion Rate

How to fill out FY 1996 Completion Rate spreadsheet

Count and list the students who will be included in the calculation of your school's completion rate appeal using a spreadsheet software application such as Lotus 1-2-3, Supercalc, or Excel. The resulting spreadsheet must be sent to the Department.

The spreadsheet width should be on one 8 1/2 x 11 page in a landscape (horizontal) layout. A sample spreadsheet follows these instructions.

Header: Enter **FY 1996 Completion Rate** in the center of the header area. In the left-hand area, enter your school's name, your school's OPE ID number, and the acceptable 12-month period.

Note **You must use the same 12-month period as on the economically disadvantaged rate spreadsheet.**

Footer: Enter the date the appeal was prepared in the left side of the footer area. Set up automatic pagination in the right side of the footer area so the specific page number and the total number of page numbers show on each page (example: page 1 of 10 pages).

On rows 1, 2, 3, and 4 use the draw tool to draw a rectangle covering line A1 to K4. Using the text-box tool draw another box for **Box D** information. In this box, enter the number of students (from column 6) who successfully completed their programs **[D1]**, the number of students (reported in column 1) originally scheduled to complete their programs **[D2]**, and your school's completion rate **[100 x D1/D2]**. See the instructions for Box D information on the following page.

On row 5, enter **exactly** the same column names in **exactly** the same order as listed on the sample spreadsheet.

On row 6 and below, the following data must be included for each student who will be included in your school's completion rate.

Column 1: Enter the student's Social Security number using hyphens to separate the numbers (example: 000-00-0000) of all your regular students who meet the conditions identified on page 147. Sort in numerical order when ready to print the spreadsheet.

Column 2: Enter the student's name.

Column 3: Enter each student's program of study. Do not use abbreviations.

Column 4: Enter MM/DD/YYYY (month/day/year) to identify the date that each student was originally scheduled, at the time of enrollment, to complete his or her program of study.

Column 5: Enter MM/DD/YYYY to identify the student's beginning and ending enrollment dates.

Column 6: Enter X if the student meets one of the following three successful completion conditions. (If not, leave blank.)

(1) The student received a degree at your school.

OR

(2) The student transferred from your school to a higher level educational program.

OR

(3) The student remained enrolled at your school at the end of the 12-month period and was making satisfactory academic progress (SAP) toward completion of his or her educational program.

175

Appealing Exceptional Mitigating Circumstances Based on the Completion Rate

How to fill out FY 1996 Completion Rate spreadsheet (cont'd)

Column 7: Enter the date the degree was received for each student who met the successful completion conditions by receiving a degree from your school.

Column 8a: Enter the MM/DD/YYYY to identify the transfer date for each student who met the successful completion conditions by transferring from your school to a higher level educational program.

Column 8b: Enter the name and address of the school for each student who transferred from your school to a higher level educational program.

Column 8c: Enter the name of the higher-level educational program of each student who transferred from your school to a higher level educational program.

Column 9: Enter X for each student who met the successful completion conditions by remaining enrolled and maintaining satisfactory academic progress at your school at the end of the selected 12-month period.

Instructions for Box D (located in the shaded area):

- Count the number of Xs that appear in Column 6. The total number of Xs will be **D1** in the calculation. Record this number in **Box D** on the CR spreadsheet. This is the number of students who were successfully completing their programs.
- Count the number of students listed in the CR spreadsheet by counting the number of entries in Column 1. The total number of students will be **D2** in the calculation. Record this number in **Box D** in the CR spreadsheet. This is the number of students that were scheduled to complete during the 12 month period.
- Calculate **100 x D1/D2** and record the result in Box D on the CR spreadsheet. **This percentage is your school's completion rate.**

School Name
OPE ID Number
12-Month Period: **Sample** 4/2/1994-4/1/1995

FY 1996
Completion Rate

Note: This is a sample spreadsheet.
(See instructions.)

Box D

No. of Students Who Met Successful Completion Conditions (from column 6) **[D1]** ____
No. of Students Originally Scheduled to Complete Programs (from column 1) **[D2]** ____
Completion Rate **[100 x D1/D2]** ____%

1. Student's SSN (sort in numerical order)	2. Student's name	3. Student's program of study	4. Date that student was originally scheduled to complete program of study MM/DD/YYYY	5. Student's enrollment dates (from MM/DD/YYYY to MM/DD/YYYY)	6. If student met the successful conditions, enter X	7. Date student received degree from your school, if applicable MM/DD/YYYY	8a. Date student transferred to higher level program, if applicable MM/DD/YYYY	8b. Name and address of school to which student transferred to higher level program, if applicable	8c. Name of higher level educational program student transferred to, if applicable (do NOT use abbreviations)	9. If student met the successful completion conditions by remaining enrolled and making SAP, enter X
111-11-1111	Judy Jones	Accounting	2/20/1995	1/15/1994-1/10/1995	X	1/10/1995				
222-22-2222	James Smith	Accounting	3/26/1995	5/16/1994-7/15/1994						
333-33-3333	Helen Carr	Psychology	12/6/1994	4/10/1993-present	X					X
444-44-4444	Tony Paine	Sociology	5/27/1994	6/26/1991-3/10/1994	X		3/10/1994	School A Erie, ME 55555	Pyschology	

MM/DD/YYYY
182

[send to U.S. Department of Education]

183

Page __ of __ pages

GLOBAL ACCOUNTING, INC.

1212 Main Street
Dunkirk, Maine 11111-2222
(111) 111-1111

Sample Letter

December 15, 1998

U.S. Department of Education
Default Management Division
ATTN: Exceptional Mitigating Circumstances Appeals
ROB 3, Room 3905
600 Independence Avenue, SW
Washington, DC 20202-5353

OPE ID#: [*insert OPE ID#*]

Subject: Independent Accountant's Attestation Report for Exceptional Mitigating Circumstances Appeal Based on FY 1996 Economically Disadvantaged and Completion Rates.

To Whom It May Concern:

We have examined management's assertion included in its representation letter, dated [*insert date*], that the information contained in [*insert school's name*]'s **OPE ID#** [*insert OPE ID#*] exceptional mitigating circumstances appeal based on its economically disadvantaged and completion rates, is complete, accurate and determined in accordance with the requirements of 34 CFR § 668.17(c). As discussed in that representation letter, management is responsible for [*insert school's name*]'s compliance with those requirements. Our responsibility is to express an opinion on management's assertion about the institution s compliance based on our examination.

Our examination was made in accordance with standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence about [*insert school's name*]'s compliance with 34 CFR § 668.17(c) and performing such other procedures as we considered necessary in the circumstances. We believe our examination provides a reasonable basis for our opinion. Our examination does not provide a legal determination on [*insert school's name*]'s compliance with specified requirements.

In our opinion, management's assertion that the information contained in [*insert school's name*]'s appeal, dated [*insert date*] which reports that [*insert school's name*] has an economically disadvantaged rate of [*insert EDR XX.X %*] and a completion rate of [*insert CR YY.Y%*] for the twelve-month period beginning on [*insert MM/DD/YYYY*] and ending on [*insert MM/DD/YYYY*] is complete, accurate, and determined in accordance with the requirements set forth in 34 CFR § 668.17(c), is fairly stated, in all material respects.

This report is intended solely for the information of an audit committee, management, and the U.S. Department of Education. However, this report is a matter of public record and its distribution is not limited.

Respectfully submitted,

Mary Smith

Mary Smith, CPA
President, Global Accounting, Inc.

Withdrawing an Appeal

BACKGROUND

If a school decides not to continue with an appeal, it may withdraw from the appeal process by notifying the Department in writing and sending a copy to the involved guaranty agencies and/or Direct Loan servicer.

An appeal is withdrawn in its entirety, not on an agency-by-agency or servicer-by-servicer basis.

Why would my school want to withdraw an appeal?

At various stages of the appeal process, your school may evaluate whether it is useful to continue with an appeal. For instance, after reviewing a guaranty agency and/or Direct Loan servicer's response to a list of alleged errors, a school might decide NOT to proceed with an appeal because it would not significantly change its official cohort default rate.

To submit an **erroneous data appeal** to the Department, your school's erroneous data appeal **must reduce** one of its three most recent official cohort default rates to below 25.0 percent.[1] Your school should withdraw its erroneous data appeal if the appeal by itself or in combination with other cohort default rate appeals would not reduce one of its three most recent official cohort default rates below 25.0 percent.

1. 34 CFR § 668.17(c)(1)(i)(B)

TIMING

When should my school notify the Department that it is withdrawing an appeal?

Your school may withdraw its appeal at any time until the Department issues a decision on the appeal. If your school would like to withdraw its appeal, notify the Department in writing and send a copy of the letter to the applicable guaranty agencies and/or Direct Loan servicer.

Q. If my school withdraws its appeal, will the Department return the appeal materials the school sent?

A. Yes, the Department will acknowledge your school's withdrawal, in writing, and return your school's appeal materials.

If your school is withdrawing one or more of its appeals during the appeal process (usually as a result of receiving a final response from a guaranty agency or Direct Loan servicer), please follow this timetable:

- When withdrawing an **erroneous data appeal**, notify the Department within **5 working days** of receiving the **final response** to your school's list of alleged errors from ALL relevant guaranty agencies and/or the Direct Loan servicer.

  Example: After reviewing the responses from the ABC guaranty agency and the Direct Loan servicer, Our Town College (OTC) determined that there were no errors in its FY 1996 official loan record detail report and that its 27.2 percent official cohort default rate was accurate. Within 5 working days of receiving the response from the Direct Loan servicer, which was the last response received by the school, OTC wrote the Department that it was withdrawing its FY 1996 erroneous data appeal; simultaneously it sent a copy of the withdrawal letter to the ABC guaranty agency and Direct Loan servicer.

- When withdrawing an **improper loan servicing and collection appeal**, notify the Department within **30 calendar days** of receiving the **final response** to your school's request for loan servicing records from ALL guaranty agencies.

Example: State Technical College (STC) reviewed the loan servicing records provided by the applicable guaranty agencies and discovered that all the loans were properly serviced under 34 CFR § 668.17(h)(3)(viii). Within 30 calendar days of receiving all of the requested loan servicing records from the final guaranty agency, STC wrote to the Department that it was withdrawing its FY 1996 improper loan servicing appeal; simultaneously, it sent a copy of the withdrawal letter to the applicable guaranty agencies.

- When withdrawing an **exceptional mitigating circumstances appeal**, notify the Department within **60 calendar days** of the date your school received notice that it was subject to sanctions.

  Example: State Community College (SCC) submitted an exceptional mitigating circumstances appeal to the Department within the required 30-calendar-day time frame. SCC then submitted its appeal to an independent auditor for certification. The auditor found that management made material misstatements and that the school did NOT meet exceptional mitigating circumstances thresholds. Within 60 calendar days of the date SCC received notice that is was subject to sanctions, SCC wrote to the Department that the school was withdrawing its FY 1996 exceptional mitigating circumstances appeal.

SUBMITTING

How does my school withdraw an appeal?

If your school decides that it no longer wishes to appeal, it should notify the Department, in writing, by sending:

- A letter on your school's letterhead stating—
  - your school's OPE ID number,
  - that your school wishes to withdraw its appeal,
  - the fiscal year to which the appeal applies,

- the type of appeal that is being withdrawn (erroneous data, improper loan servicing, and/or exceptional mitigating circumstances).

- a signature by your school's President/CEO/Owner, followed by a signature block providing the signer's name and job title. (See sample letter **Withdrawing an FY [*insert year(s)*] [*choose erroneous data, improper loan servicing, and/or exceptional mitigating circumstances*] Appeal** on the next page.)

AND

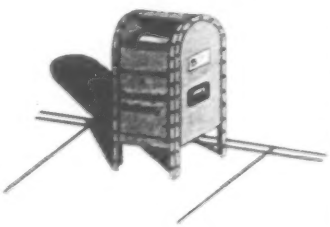
- a notation that a copy of the letter will be sent to the involved guaranty agencies and/or Direct Loan servicer.

The Department will not accept any appeal correspondence by facsimile (fax) or e-mail.

The Department recommends sending all correspondence return receipt requested or commercial overnight delivery.

The Department accepts deliveries from commercial couriers and/or hand deliveries Monday through Friday, 8:00 a.m. to 4:30 p.m. (Eastern Time).

If sent by commercial overnight mail/courier delivery, send your school's appeal withdrawal to:



U.S. Department of Education
Default Management Division
ATTN: Appeal Withdrawals
ROB-3, Room 3905
7th and D Streets, SW
Washington, DC 20202

If sent by U.S. Postal Service, send your school's appeal withdrawal to:

U.S. Department of Education
Default Management Division
ATTN: Appeal Withdrawals
ROB-3, Room 3905
600 Independence Avenue, SW
Washington, DC 20202-5353

Our Town A&M University

1212 Bell Lane
Leonardtown, Wisconsin 12345-6789
(123) 456-7890

Sample Letter

December 6, 1998

U.S. Department of Education
Default Management Division
ATTN: Request for Adjustment
ROB-3, Room 5125
600 Independence Avenue, SW
Washington, DC 20202-5353

OPE ID#: [*insert OPE ID#*]

Subject: Withdrawing an FY [*insert year*] [*choose erroneous data, improper loan servicing, and/or exceptional mitigating circumstances*] Appeal

To Whom It May Concern:

Our Town A&M University, **OPE ID#** [*insert OPE ID#*], wishes to withdraw its FY [*insert year*] appeal based on [*choose erroneous data, improper loan servicing, and/or exceptional mitigating circumstances*].

Thank you for your consideration.

Sincerely,

John Doe
John Doe, President
Our Town A&M University

Enclosures

cc: State Guaranty Agency
Direct Loan Servicer

Information for Guaranty Agencies on Appeals

BACKGROUND

A school may write to a guaranty agency to obtain information to appeal the school's official cohort default rate. Guaranty agencies are required to respond to these requests.[1]

Because some appeal time frames begin when a school receives a response from a guaranty agency, the Department recommends that guaranty agencies:

- send all correspondence to schools return receipt requested or via commercial overnight mail/courier delivery

AND

- maintain files of signed returned receipts.

Note There are two official cohort default rate processes that do not involve guaranty agencies. Guaranty agencies do NOT have roles in requests for adjustments and exceptional mitigating circumstances appeals. Page 178 of this section provides guidance to guaranty agencies if a school mistakenly sends a request for adjustment or an exceptional mitigating circumstances appeal to a guaranty agency.

The Direct Loan Servicer has been provided separate guidance for the cohort default rate appeal process.

Please write the Department's Default Management Division at the address listed in Appendix C, page 1 when your guaranty agency's name, address, phone number, contact person, or e-mail address changes.

The Department will frequently call to request copies of material which verifies a school's receipt of the guaranty agency response.

1. 34 CFR § 682.401(b)(15)

MONTHLY STATUS REPORTS

How does a guaranty agency notify the Department about the status of a school's requests?

A guaranty agency should send the Department a copy of its response to a school's requests. The information that needs to be provided to a school is detailed in the specific appeals sections that follow.

The monthly status report is a **cumulative** list of cohort default rate requests from schools that includes ALL requests received after the release of the FY 1996 official cohort rates UNTIL the release of the FY 1997 official cohort rates.

In addition to receiving copies of correspondence with schools, the Department requests that each guaranty agency provide the Department with a monthly status report. These status reports will assist the Department in monitoring that the time frames within the appeals process are met. The status report should be sent to the Department within **5 working days** of the end of the month. For example, the status report for November 1998 should be sent by December 5, 1998.

Q. Can a guaranty agency submit copies of its responses to schools' requests as part of its monthly status report to the Department?

A. Yes, a guaranty agency may batch its copies and send them to the Department once a month along with its monthly report.

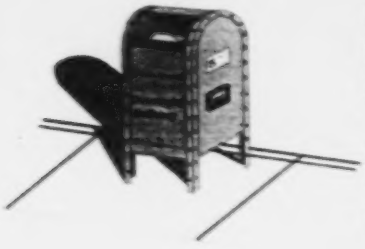
The monthly report provides the Department with a status update on cohort-default-rate-related requests that guaranty agencies receive from schools after the release of the FY 1996 official cohort default rates. The report should be a **cumulative** listing of all cohort-default-rate related requests and should reflect the date that the guaranty agency responded to the school's request and the date the school received the response.

Note The monthly report should be in order by:

1. **OPE ID#**
2. **Appeal type**
3. **Fiscal year**

(Guaranty agencies should use spreadsheet **Monthly Status Report on Cohort Default Rate Requests**, on page 177, or its equivalent, to submit reports.)

If sent by commercial overnight mail/courier delivery, send copies and monthly status reports to:



U.S. Department of Education
Default Management Division
ATTN: Guaranty Agency Monthly Status Reports
ROB-3, Room 3905
7th and D Streets, SW
Washington, DC 20202

The Department recommends sending all correspondence return receipt requested or via commercial overnight mail/courier delivery.

If sent by U.S. Postal Service, send copies and monthly status reports to:

U.S. Department of Education
Default Management Division
ATTN: Guaranty Agency Monthly Status Reports
ROB-3, Room 3905
600 Independence Avenue, SW
Washington, DC 20202-5353

The Department accepts deliveries from commercial couriers and/or hand deliveries Monday through Friday, 8:00 a.m. to 4:30 p.m. (Eastern Time).

Compiling a Monthly Status Report on Cohort Default Rate Requests

ɔut Monthly Status Report on Cohort Default Rate Requests spreadsheet

List all schools that requested cohort default rate information using a spreadsheet software application such as Lotus 1-2-3, Supercalc, or Excel. The resulting spreadsheet is sent to the U.S. Department of Education (the Department).

The spreadsheet width should be on one 8 1/2 x 11 page in a landscape (horizontal) layout. A sample spreadsheet follows these instructions.

Header: Enter **Monthly Status Report on Cohort Default Rate Requests** in the center of the header area. In the left side of the header area, enter the name of the guaranty agency.

Footer: Enter the date in the left side of the footer area. Set up automatic pagination in the right side of the footer area so that the specific page number and the total number of pages show on each page (example: page 1 of 10 pages).

Sort: The report should be a cumulative listing of all cohort default related requests in order by:

1. **OPE ID#**
2. **Appeal type**
3. **Fiscal year**

On Row 1 enter **exactly** the same column names in **exactly** the same order as listed on the sample spreadsheet.

On Row 2 and below, include the following data for each school requesting cohort default rate information during this reporting period.

Column 1: Enter the school's six-digit OPE ID number.

Column 2: Enter the school's name.

Column 3: Enter the type of request. Use ER (erroneous data) or LS (improper loan servicing) to identify the type of request.

Column 4: Enter the fiscal year(s). Use FY 1994, FY 1995 and/or FY 1996 to identify the applicable fiscal year(s).

Column 5: Enter MM/DD/YYYY to identify the date the guaranty agency mailed a response to the school.

Column 6: Enter MM/DD/YYYY to identify the date the school signed for the response from the guaranty agency.

Column 7: Enter comments in this column, if needed.

Guaranty Agency

Monthly Status Report on Cohort Default Rate Requests

Note: This is a sample spreadsheet. (See instructions.)

1. School's OPE ID number	2. School's name	3. Type of request (ER or LS)	4. Fiscal year(s) being appealed (FY 1994, FY 1995 and/or FY 1996)	5. Date the guaranty agency mailed a response to the school (MM/DD/YYYY or leave blank)	6. Date the school signed for the response from the guaranty agency (MM/DD/YYYY or leave blank)	7. Comments, if needed
001100	Our Town A&M	ER	FY 1996	11/7/1998	11/8/1998	
001101	School A	LS	FY 1994, 1995, 1996			
001102	School B	ER	FY 1996	11/8/1998		

MM/DD/YYYY

[send to U.S. Department of Education]

Page __ of __ pages

Information about a guaranty agency's role in specific situations follows.

REQUEST FOR ADJUSTMENT

A guaranty agency should NOT review a school's request for adjustment, since schools should submit all requests for adjustment directly to the Department.

If a guaranty agency receives a request for adjustment from a school, it **immediately** should contact the school to inform it that the request for adjustment must be sent to the Department, and that the request must be sent within **10 working days** of the school receiving its official loan record detail report.

EXCEPTIONAL MITIGATING CIRCUMSTANCES APPEAL

A guaranty agency does NOT have a role in a school's appeal based on exceptional mitigating circumstances. An exceptional mitigating circumstances appeal is determined by the Department on the basis of school information and Department records.

If a guaranty agency receives an exceptional mitigating circumstances appeal from a school, it **immediately** should contact the school and inform it that the exceptional mitigating circumstances appeal must be sent to the Department, and that the appeal must be sent within **30 calendar days** of the school receiving its official cohort default rate.

ERRONEOUS DATA APPEAL

How long does a guaranty agency have to respond to a school's request for verification of erroneous data?

The guaranty agency must respond to a school within **15 working days** of receiving the school's request to verify erroneous data.[2]

What if unforeseen circumstances prevent a guaranty agency from responding to a school's request within the required 15-working-day period?

If a guaranty agency is unable to respond within the required **15 working days**, it should:

- send the school a letter—
  - explaining the circumstances causing the delay,
  - telling the school when it will respond,
  - explaining that the school's opportunity to submit an appeal to the Department is not being jeopardized as the time frame for submitting appeals does not begin until the school receives the guaranty agency's response,[3]

    AND
  - including a notation that a copy will be sent to the Department.

  AND
- simultaneously, send a copy of the letter to the Department.

If a school does NOT receive a response from a guaranty agency within the required time period, the school may notify the Department, in writing, that it has not received the required response.

2. 34 CFR § 682.401(b)(15)
3. 34 CFR § 668.17(c)(8)

How should a guaranty agency respond to an ineligible school's request for verification of erroneous data?

Occasionally, a school requests verification of erroneous data when it is not eligible to do so. The following table summarizes how a guaranty agency should respond to requests from ineligible schools:

Guaranty Agency Response to Erroneous Data Requests From Ineligible Schools

If...	Then..
a school that is NOT subject to sanctions submits a request for verification of erroneous data	the guaranty agency does NOT review any part of the school's request. The guaranty agency should respond to the school and explain that only schools that are subject to sanctions may appeal on the basis of erroneous data.[4] Refer the school to the erroneous data appeal section beginning on page 43 of this guide, and simultaneously send a copy of the letter to the Department.
a school that is subject to *extended* loss of Federal Family Education Loan (FFEL) Program and/or Direct Loan Program eligibility AND/OR limitation, suspension, or termination (LS&T) of federal student financial assistance programs requests verification of erroneous data for its FY 1996, FY 1995 and/or FY 1994 official cohort default rates	the guaranty agency reviews the allegations and provides a response ONLY for the FY 1996 data allegations. In its response to the school, the guaranty agency should explain that it can review only the FY 1996 data allegations, because the school is not eligible to appeal any other cohort default rates. Refer the school to the erroneous data appeal section beginning on page 43 of this guide, and simultaneously send a copy of the letter to the Department.

4. 34 CFR § 668.17(c)(1)(i)

Guaranty Agency Response to Erroneous Data Requests From Ineligible Schools (cont'd)

If...	Then..
a school's request for verification of erroneous data is sent more than **10 working days** after the school received its official cohort default rate notification letter from the Department	the guaranty agency does NOT review any part of the school's request. In its response to the school, the guaranty agency should explain that it is unable to review the request because the school missed the regulatory deadline.[5] Refer the school to the erroneous data appeal section beginning on page 43 of this guide, and simultaneously send a copy of the letter to the Department. ♦ The guaranty agency should contact the Department if it needs assistance verifying the date an official cohort default rate was received by a school.
a school alleges errors that it did NOT challenge during the draft data review process, and the alleged errors are NOT new data included in the official loan record detail report	the guaranty agency should NOT review the alleged errors. (The guaranty agency should, however, review all eligible allegations.) In its response to the school, the guaranty agency should explain that it is unable to review the allegations because the school was required to have challenged the data during the draft data review process BUT failed to do so AND the data are not new data.[6] Refer the school to the erroneous data appeal section beginning on page 43 of this guide, and simultaneously send a copy of the letter to the Department.

Q. How does a guaranty agency know when a school received its official cohort default rate?

A. The Department mails all official cohort default rates at an announced time, and tracks the school's receipt of these rates. Before denying a school's request on the basis of a late submission, a guaranty agency should contact the Department to verify the actual date the school received its rate.

5. 34 CFR § 668.17(c)(8)(i) and 668.17(i)
6. 34 CFR § 668.17(j)(7)

Responding to Specific Types of Allegations of Error

What should a guaranty agency do when a school makes an allegation of error that deals with linking a Federal SLS Loan and a Federal Stafford Loan?

For any Federal SLS Loan that was NOT reported in a cohort period prior to FY 1993, the following applies:

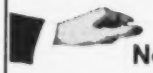
- If a student has both a Federal SLS Loan and a Federal Stafford Loan that were both obtained in the same period of continuous enrollment, the date the student entered repayment for the Federal SLS Loans is the same as the date the student entered repayment for the Federal Stafford Loan.
- In all other instances, the date the student entered repayment for the Federal SLS Loan is the day following the day the student is no longer enrolled on a half-time basis.

Under the above guidelines, which were implemented beginning with FY 1993 cohort default rates, a loan that was reported as having entered repayment prior to FY 1993 might also meet the criteria to be included in FY 1993 or later. To prevent the possibility of double-counting loans, any Federal SLS loan that was reported in a cohort period prior to FY 1993 will remain in that cohort period and not be reported again.

How does a guaranty agency determine if a loan was converted using a date-specific or a month-specific methodology?

Please see page 9 for more information on repayment dates.

A guaranty agency reviews its records to determine how the loan originally was converted into repayment **by the lender**. A school has no role in the lender's decision and may not appeal to guaranty agencies, or to the Department to change a lender's methodology.



Note The repayment date for FFEL Program/Stafford Loans may be date-specific (for example, 5/16/1996) or month-specific (for example, 5/1996) if the loan was converted into repayment before March 1996. Beginning in March 1996, the date entered repayment must be date-specific.

How should a guaranty agency respond to a school's allegation that a loan was repurchased by the lender?

The guaranty agency should indicate why the loan was **repurchased**.

- If the loan is repurchased by the lender because the guaranty agency determined that the lender failed to meet the insurance requirements, the loan becomes an uninsured loan. Uninsured loans are not included in either the numerator or the denominator of the cohort default rate calculation.
- If the loan is repurchased because the lender incorrectly submitted the loan to the guaranty agency and the lender immediately requested the loan be returned, the loan is not a defaulted loan unless the lender subsequently submits another claim on the loan and that claim is paid within the cohort period in question.
- If the loan is repurchased because the borrower established a new payment plan and is making payments, the loan is still considered a defaulted loan, for cohort defaulted purposes, UNLESS the loan meets the rehabilitation criteria discussed in the special circumstances chart on page 14.

What format should a guaranty agency use to respond to a school's request for verification of erroneous data?

When responding to a school's request for verification of erroneous data, the guaranty agency response must have the following components.

Q. What if a guaranty agency can respond to only a portion of a school's allegations within 15 working days?

A. It should hold that portion of the response until it can provide a response to ALL the school's allegations. The guaranty agency also should notify the school and the Department that the reply will be delayed and remind the school that the delay does not jeopardize the school's appeal rights. When ALL the needed data are gathered, the guaranty agency should send ALL of the data to the school in a single mailing.

Component 1

Component 1 consists of:

- A letter on the guaranty agency's official letterhead with—
  - the school's name,
  - the school's OPE ID number,
  - the type of appeal to which the guaranty agency is responding,
  - the fiscal year(s) for which the guaranty agency is responding, AND
  - an indication that a copy was sent to the Department.

(See sample letter **FY [*insert year(s)*] Erroneous Data Response to Allegations**, on page 185.)

Component 2

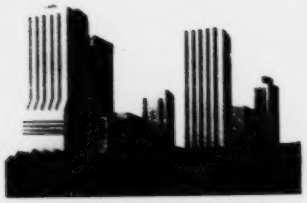
Component 2 consists of:

- a completed spreadsheet responding to the school's request for information. (Use **FY [*insert year(s)*] Response to a School's Allegations of Erroneous Data**, on page 187, or its equivalent.)
  - guaranty agencies must provide every data element listed on the spreadsheet.

Component 3 *(Optional)*

Component 3 contains:

- an OPTIONAL narrative or comment section about entries on the spreadsheet.



State Guaranty Agency

1010 Maple Lane, Suite 200
Woodston, Michigan 98765-4321
(111) 111-1111

Sample Letter

November 25, 1998

Our Town A&M University
ATTN: John Doe, President
1212 Bell Lane
Leonardtown, Wisconsin 12345-6789

OPE ID#: [*insert OPE ID#*]

Subject: FY [*insert year(s)*] Erroneous Data Response to Allegations

To Whom It May Concern:

This is State Guaranty Agency's response to [*insert school's name*]'s, **OPE ID #** [*insert OPE ID#*] allegations of erroneous data in its FY [*insert year(s)*] official cohort default rate.

The information you requested is on the enclosed spreadsheet.

Sincerely,

Sarah Belham

Sarah Belham, CEO
State Guaranty Agency

Enclosures

cc: U.S. Department of Education

Responding to a School's Allegations of Erroneous Data

How to fill out FY [*insert year(s)*] Response to a School's Allegations of Erroneous Data spreadsheet

List all responses to a school's request for verification of errors in its official loan record detail report using a spreadsheet software application such as Lotus 1-2-3, Supercalc, or Excel. The resulting spreadsheet is sent to the school that requested the data.

The spreadsheet width should be on one 8 1/2 x 11 page in a landscape (horizontal) layout. A sample spreadsheet follows these instructions.

Header: Enter **FY [*insert year(s)*] Response to a School's Allegations of Erroneous Data** in the center of the header area. In the upper left area, enter the requesting school's name and its OPE ID number. In the upper right area, enter the guaranty agency's name.

Footer: Enter the date in the lower left side of the footer area. Set up automatic pagination in the right side of the footer area so that the specific page number and the total number of pages show on each page, for example (page 1 of 10 pages).

On Row 1 enter **exactly** the same column names in **exactly** the same order as listed on the sample spreadsheet.

On Row 2 and below, include the following data for each loan where there is an alleged error.

Column 1: Enter the borrower's Social Security number (SSN) using hyphens to separate the numbers (example: 000-88-0000). If more than one SSN is listed, sort by numerical order when ready to print the spreadsheet.

Column 2: Enter the borrower's name.

Column 3: Enter Disputed (Disputed Data) or New (Incorrect New Data) to identify if errors are alleged on the basis of unresolved data from the draft data review process or incorrect new data.

Column 4: Enter the loan type. Use FFEL/SF (Federal Family Education Loan/Stafford), DL/SF (Direct Loan/ Stafford), or SLS (Supplemental Loans for Students) to identify type of loan.

Column 5: Use X to identify whether an SLS repayment date needs to be linked to a FFEL/Stafford repayment date. If linkage is not applicable, leave blank.

Column 6: Enter MM/DD/YYYY (month/day/ year) to identify the BCD (beginning class date) of the loan period.

Column 7: Enter MM/DD/YYYY to identify the ECD (ending class date) of the loan period.

Column 8: Enter MM/DD/YYYY to identify LGD (loan guaranty date).

Column 9: Enter MM/DD/YYYY to identify the **EARLIER** of LTH (less-than-half-time) enrollment or LDA (the last date of attendance).

Column 10: Enter MM/DD/YYYY to identify the date the loan entered repayment.

Column 11: Enter MM/DD/YYYY to identify the CPD (claim paid date), DD (the default date), or the ICRD (income contingent repayment date). Leave blank if the student did not default.

Column 12: Enter the recommended fiscal years to which a change should be made.

Column 13: Enter N (Numerator), D (Denominator), or B (both Numerator and Denominator) with a negative or positive sign (-D or +D) to indicate the effect on the CDR (cohort default rate) calculation. If there is no effect, enter None.

Column 14: Enter Yes if there is a comment in the binder section of your mailing, otherwise leave blank.

School's Name
School's OPE ID #

FY [*insert year(s)*]
Response to a School's
Allegations of Erroneous Data

[insert Guaranty agency's name]

1. Borrower's SSN (sort in numerical order)	2. Borrower's name	3. Basis of allegation of error (Disputed or new)	4. Type of loan (FFEL/SF DL/SF or SLS)	5. Link SLS to FFEL (X or leave blank)	6. BCD of the loan period (MM/DD/YYYY)	7. ECD of the loan period (MM/DD/YYYY)	8. Loan guaranty date (LGD) (MM/DD/YYYY)	9. Earlier of LTH or LDA (MM/DD/YYYY)	10. Date entered repayment (MM/DD/YYYY)	11. Identify CPD, DD or ICRD (MM/DD/YYYY or leave blank)	12. Fiscal year(s) applicable	13. Effect on CDR calculation	14. Comment in binder section of your mailing (Yes or leave blank)
000-00-0000	John Doe	Disputed	FFEL/SF		9/1/1995	12/12/1995	9/1/1995	9/2/1995	3/3/1996		FY 1996 FY 1995	+D -D	

Note: This is a sample spreadsheet. See instructions.

MM/DD/YYYY 207

[send to school]

Page __ of __ pages

IMPROPER LOAN SERVICING AND COLLECTION APPEAL

How long does a guaranty agency have to respond to a school's request for loan servicing records?

Time frames when guaranty agencies **charge a fee**.

If the guaranty agency **charges for loan servicing records**, the guaranty agency must determine which loan servicing records are within the sample that will be provided to the school and bill the school within **15 working days** of receiving the school's request for a representative sample of loan servicing records. A guaranty agency may charge up to $10 for each loan record.[7] Once full payment is received, the guaranty agency has **15 working days** to provide the servicing records.

A school must submit full payment within **15 working days** of receiving a guaranty agency's request for payment.

Note

If a school fails to submit full payment within the required time frame and the guaranty agency has not yet provided loan servicing records, the school loses its right to challenge that guaranty agency's loan servicing records.[8] The guaranty agency then must notify both the school and the Department that the school has lost the right to appeal student loans guaranteed by that agency on the basis of improper loan servicing and collection.

If a school does not submit full payment within the required time frame BUT the guaranty agency has provided loan servicing records to the school, the school's right to challenge that guaranty agency's loan servicing records is not jeopardized.

7. 34 CFR § 668.17(h)(3)(iii)(D)
8. 34 CFR § 668.17(h)(3)(iii)(F)

If the guaranty agency **does NOT charge for loan servicing records**, it has:

- **15 working days** to provide loan servicing records to schools that are subject to the loss of FFEL Program and/or Direct Loan Program eligibility[9]

  AND

- **30 calendar days** to provide loan servicing records to schools that are NOT subject to the loss of FFEL Program and/or Direct Loan Program eligibility.[10]

Time frames when guaranty agencies **do NOT charge a fee**.

What if unforeseen circumstances prevent a guaranty agency from responding to a school within the required time period?

If a guaranty agency is unable to respond within the required time period, it should:

- send the school a letter—
  - explaining the circumstances causing the delay,
  - telling the school how soon it will respond,
  - explaining that the school's opportunity to submit an appeal to the Department is not being jeopardized as the time frame for submitting appeals does not begin until the school receives the guaranty agency response,[11]

    AND

  - including a notation that a copy will be sent to the Department.

  AND

- simultaneously provide a copy of the letter to the Department.

If a school does NOT receive **a response from a guaranty** agency within the required time period, the school may notify the Department, in writing, that it has not received the required response.

9. 34 CFR § 668.17(h)(3)(iii)
10. Id.
11. 34 CFR § 668.17(h)(3)(iv)

How should a guaranty agency select a random representative sample of loan servicing records?

A guaranty agency must identify all of a school's defaulted student loan borrowers included in the relevant cohort period that were guaranteed by the agency. From that total population, the guaranty agency must select a representative sample of "a size such that the universe estimate derived from the sample is acceptable at a 95 percent confidence level with a plus or minus 5 percent confidence interval."[12] The Department has provided guidance to guaranty agencies on the appropriate method of selection and the appropriate sample sizes. Please contact the Department at the address or phone number listed in Appendix C, page 1 if your guaranty agency does not have this guidance.

A guaranty agency may choose to provide all records in the total population of defaulted student borrowers or provide a representative sample based on guidance provided by the Department.

Note The representative sample is randomly selected by the guaranty agency from the relevant loan record detail report; a school may not request specific borrower records.

To further assist schools in reading the collection history, it may be beneficial for your guaranty agency to identify the collection activities noted in 34 C.F.R. Section 668.17(h)(3)(viii). This may be done by highlighting the elements in the actual collection record provided to the school.

How should a guaranty agency respond to a school's request for loan servicing records that is not eligible to receive the records?

Occasionally, a school requests loan servicing records when it is not eligible to do so. The table on the next page summarizes how a guaranty agency should respond to requests from ineligible schools.

12. 34 CFR § 668.17(h)(3)(iii)(B)

Guaranty Agency Response to Loan Servicing Records Requests From Ineligible Schools

If...	Then..
a school that has an official cohort default rate below 20.0 percent submits a request for loan servicing records	the guaranty agency does NOT provide the loan servicing records. In its response to the school, the guaranty agency should explain that only schools that have an official cohort default rate equal to or greater than 20.0 percent may appeal on the basis of improper loan servicing.[13] Refer the school to the loan servicing appeal section beginning on page 71 of this guide, and simultaneously send a copy of the letter to the Department.
a school with a cohort default rate over 20.0 percent that is NOT subject to initial loss of Federal Family Education Loan (FFEL) Program and/or Direct Loan Program eligibility requests loan servicing records for its FY 1996, FY 1995 and/or FY 1994 official cohort default rates	the guaranty agency provides the representative sample of loan servicing records ONLY for the FY 1996 cohort year and only if the school's FY 1996 official cohort default rate is 20.0 percent or greater. In its response to the school, the guaranty agency should explain that it can provide only the FY 1996 loan servicing records, because the school is not eligible to appeal any other cohort default rates. Refer the school to the loan servicing appeal section beginning on page 71 of this guide, and simultaneously send a copy of the letter to the Department.
a school fails to provide a copy of the loan record detail report with its request for loan servicing records	the guaranty agency should immediately write to the school requesting that the loan record detail report be provided within **5 working days**. If the school does not provide the relevant loan record detail report within **5 working days** of receiving the request, the guaranty agency should write to the school explaining that it cannot respond to the school's request. Refer the school to the loan servicing appeal section beginning on page 71 of this guide, and simultaneously send a copy of the letter to the Department.

13. 34 CFR § 668.17(h)(1)

Q. How does a guaranty agency know when a school received its official cohort default rate?

A. The Department mails all official cohort default rates at an announced time and tracks the school's receipt of these rates. Before denying a school's request on the basis of a late submission, a guaranty agency should contact the Department to verify the actual date the school received its rate.

A guaranty agency may choose to provide all records in the total population of defaulted student borrowers or provide a representative sample based on the guidance provided by the Department.

Guaranty Agency Response to Loan Servicing Records Requests From Ineligible Schools (cont'd)

If...	Then..
a school's request for loan servicing records is sent more than **10 working days** after the school received its official cohort default rate notification letter from the Department	the guaranty agency does NOT provide the loan servicing records. In its response to the school, it should explain that it is unable to review the request because the school missed the regulatory deadline.[14] Refer the school to the loan servicing appeal section beginning on page 71 of this guide, and simultaneously send a copy of the letter to the Department. ♦ The guaranty agency should contact the Department if it needs assistance verifying the date an official cohort default rate was received by the school.
a school requests specific loan servicing records	the guaranty agency must provide a randomly selected sample of loan servicing records that might or might not include the records specified by the school.[15] ♦ If a guaranty agency charges for records, when it sends the bill it should explain that it is required to provide a randomly selected sample. ♦ If a guaranty agency does NOT charge for the records, it should send the randomly selected records to the school and should explain that it is required to provide a randomly selected sample. Refer the school to the loan servicing appeal section beginning on page 71 of this guide, and simultaneously send a copy of the letter to the Department.

14 34 CFR § 668.17(h)(3)(ii)
15. 34 CFR § 668.17(h)(3)(iii)(B)

Guaranty Agency Response to Loan Servicing Records Requests From Ineligible Schools (cont'd)

If...	Then..
a school requests a representative sample of loan servicing records BUT the guaranty agency determines that there are not any defaulted loans in the cohort period that were guaranteed by the agency	the guaranty agency should send a letter to the school and simultaneously send a copy of the letter to the Department informing the school that there were no defaulted loans guaranteed by the agency for that cohort period.

What if a school identifies missing records or says it received illegible records in its representative sample?

A school should notify a guaranty agency, in writing, within **5 working days** of receiving its representative sample if there are missing or illegible records. The guaranty agency then has **5 working days** from receiving the school's written notification to provide missing records or legible copies.

Note A loan servicing record is not considered missing or illegible if all the relevant elements noted in 34 C. F. R. Section 668.17(h)(3)(viii) can be identified in the record provided. Also, a loan record is not considered missing or illegible if collection history documents are present and legible. Therefore, a school may only request additional documentation from the guaranty agency if the loan servicing record in question does not have the necessary material to determine if the elements specified in 34 C. F. R. Section 668.17(h)(3)(viii) were present.

What format should a guaranty agency use to respond to a school's request for loan servicing records?

When responding to a school's request for loan servicing records, the guaranty agency response must have the following components:

Component 1

Component 1 consists of:

- A letter on the guaranty agency's official letterhead with—
  - the school's name,
  - the school's OPE ID number,
  - the type of appeal to which the guaranty agency is responding,
  - the fiscal year(s) for which the guaranty agency is responding,
  - the total population of defaulted loans included in the applicable cohort period and guaranteed by the guaranty agency,
  - the number of loans included in the representative sample, AND
  - an indication that a copy of the letter was sent to the Department.

(See sample letter **FY [*insert year(s)*] Response to Request for Loan Servicing Records** on page 196.)

Component 2

Component 2 consists of:

- a list of the names and Social Security numbers of ALL students included in the sample **and the total number of defaulted student loans for each student provided in the sample.**

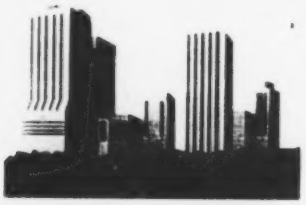
Component 3

Component 3 consists of:

- copies of ALL loan servicing records relating to loans included in the sample.

Q. What if a guaranty agency can provide only a portion of the loan records within the required time frames?

A. It should hold that portion of the loan servicing records until it can provide a full response. The guaranty agency should notify the school that the reply will be delayed and remind the school that the delay does not jeopardize the school's appeal timing. When ALL the needed loan servicing records are compiled, the guaranty agency should send ALL the data to the school in a single mailing.



State Guaranty Agency

1010 Maple Avenue, Suite 200
Woodston, Michigan 98765-4321
(111) 111-1111

Sample Letter

November 10, 1998

Our Town A&M University
ATTN: John Doe, President
1212 Bell Lane
Leonardtown, Wisconsin 12345-6789

OPE ID#: [*insert OPE ID#*]

Subject: FY [*insert year(s)*] Response to Request for Loan Servicing Records

To Whom It May Concern:

This is State Guaranty Agency's response to [*insert school's name*]'s, **OPE ID#** [*insert OPE ID#*], request for loan servicing records for FY [*insert year(s)*].

The total population of your school's defaulted loans guaranteed by this agency for FY [*insert year(s)*] is [*insert population*]. A total of [*insert sample size*] loans are included in the representative sample.

Sincerely,

Sarah Belham

Sarah Belham, CEO
State Guaranty Agency

Enclosures

cc: U.S. Department of Education

WITHDRAWING AN APPEAL

If a school decides not to continue with an appeal of its official cohort default rate, it may withdraw from the appeal process at any time. A school that withdraws from the appeal process notifies the Department, in writing, and sends a copy to the involved guaranty agencies.

Guaranty Agency Contacts

APPENDIX A

Contents

Appendix A1

Guaranty Agency Contact List (Numerical) 3

Appendix A2

Guaranty Agency Contact List (Alphabetical) 15

Guaranty Agency Contact List (*Numerical*)

CONTACTING REPORTING GUARANTY AGENCIES

The guaranty agency list that follows contains the names, addresses, telephone numbers, and contacts for guaranty agencies. Each guaranty agency is listed in **numerical order** by its three-digit guaranty agency code followed by the name of the state or territory in which it is the primary guarantor.

The number is the three-digit code found on a school's loan record detail report for each loan record. If the number for the guaranty agency is not known, see page 15 of this Appendix for an alphabetical listing of guaranty agencies by state or territory in which it is the primary guarantor.

555—U.S. Department of Education

U.S. Department of Education
ATTN: Cohort Default Rate Processing
Mail Stop 4145
6201 Interstate 30
Greenville, TX 75402-7419

(903) 408-4500

Note *This is the address for **FFEL** loans only. For the Direct Loans address, see Appendix B.*

611—District of Columbia

American Student Assistance Corporation
ATTN: Cohort Section
330 Stuart Street
P.O. Box 9215
Boston, MA 02205

Ms. Sue Pottenger
(800) 999-9080 ext. 3209
pottenger@amsa.com

620—Kansas

USA Group Guarantee Services
ATTN: Ms. Kristi Mueller
11100 USA Parkway
Fishers, IN 46038

Ms. Kristi Mueller
(317) 595-1315
kmueller@usagroup.com

654—West Virginia

Pennsylvania Higher Education Assistance Agency
ATTN: Program Review
1200 North 7th Street
HQ4
Harrisburg, PA 17102-1398

Ms. Lisa Hoffman
(717) 720-2740
lhoffman@pheaa.org

656—Wyoming

USA Group Guarantee Services
ATTN: Ms. Kristi Mueller
11100 USA Parkway
Fishers, IN 46038

Ms. Kristi Mueller
(317) 595-1315
kmueller@usagroup.com

701—Alabama

Kentucky Higher Education Assistance Authority
ATTN: Manager, Policy and Client Services Branch
1050 U.S. 127 South
Frankfort, KY 40601-4323

Mr. Richard Nickel
(502) 696-7270
rnickel@kheaa.com

702—Alaska

USA Group Guarantee Services
ATTN: Ms. Kristi Mueller
11100 USA Parkway
Fishers, IN 46038

Ms. Kristi Mueller
(317) 595-1315
kmueller@usagroup.com

705—Arkansas

Student Loan Guaranty Foundation of Arkansas
ATTN: Compliance Division Manager
219 South Victory Street
Little Rock, AR 72201-1884

Ms. Brenda Steele
(501) 688-7648
bsteele@slgfa.org

706—California

EDFUND
ATTN: Loan Detail Information Office
Cohort Default Rate Appeals and Disputes
3300 Zinfandel Drive
P.O. Box 419045
Rancho Cordova, CA 95741-9045

Ms. Kevis Foley-Bumgardener
(916) 526-8068
kfoley@edfund.org

708—Colorado

Colorado Student Loan Program
ATTN: Compliance, Training, and Investigative Branch
Assistant Manager of Marketing and Appeals
999 18th Street, Suite 425
Denver, CO 80202-2471

Mr. Chris Lines
(303) 294-5050 ext. 358
clines@cslp.org

709—Connecticut

Connecticut Student Loan Foundation
ATTN: Manager of Guarantee Operations
P.O. Box 1009
Rocky Hill, CT 06067

Ms. Sandy Barsom
(860) 257-4001 ext. 247
sbarsom@mail.cslf.org

710—Delaware

Pennsylvania Higher Education Assistance Agency
ATTN: Program Review
1200 North 7th Street
HQ4
Harrisburg, PA 17102-1398

Ms. Lisa Hoffman
(717) 720-2740
lhoffman@pheaa.org

712—Florida

Florida Department of Education
Office of Student Financial Assistance
ATTN: Ms. Jean Perkins
325 West Gains Street
255 Collins Building
Tallahassee, FL 32399-0400

Ms. Jean Perkins
(850) 488-7043
perkinj2@mail.doe.state.fl.us

713—Georgia

Georgia Higher Education Assistance Corporation
ATTN: Program Administration
2082 East Exchange Place, Suite 200
Tucker, GA 30084-5305

Ms. Carole Jones
(770) 414-3053
carole@mail.gsfc.state.ga.us

716—Idaho

Northwest Education Loan Association
ATTN: School Compliance Representative
500 Coleman Building
811 1st Avenue
Seattle, WA 98104

Ms. Linda Shannon
(206) 461-5325
lindas@nela.netg

717—Illinois

Illinois Student Assistance Commission
ATTN: Compliance Analyst
1755 Lake Cook Road
Deerfield, IL 60015-5209

Ms. Terry Dallas
(847) 948-8500
tdallas@isac.org

718—Indiana

USA Group Guarantee Services
ATTN: Ms. Kristi Mueller
11100 USA Parkway
Fishers, IN 46038

Ms. Kristi Mueller
(317) 595-1315
kmueller@usagroup.com

719—Iowa

Iowa College Student Aid Commission
ATTN: Associate Director, Claims and Collections
200 10th Street 4th Floor
Des Moines, IA 50309-3609

Mr. Brian Mohr
(515) 242-6698
brian.mohr@exch.csac.state.ia.us

721—Kentucky

Kentucky Higher Education Assistance Authority
ATTN: Manager, Policy and Client Services Branch
1050 U.S. 127 South
Frankfort, KY 40601-4323

Mr. Richard Nickel
(502) 696-7270
rnickel@kheaa.com

722—Louisiana

Louisiana Office of Student Financial Assistance
ATTN: Program Review
P.O. Box 91202
Baton Rouge, LA 70821-9202

Mr. Mark Rhodes
(504) 922-1021
mrhodes@osfa.state.la.us

723—Maine

USA Group Guarantee Services
ATTN: Ms. Kristi Mueller
11100 USA Parkway
Fishers, IN 46038

Ms. Kristi Mueller
(317) 595-1315
kmueller@usagroup.com

724—Maryland

USA Group Guarantee Services
ATTN: Ms. Kristi Mueller
11100 USA Parkway
Fishers, IN 46038

Ms. Kristi Mueller
(317) 595-1315
kmueller@usagroup.com

725—Massachusetts

American Student Assistance Corporation
ATTN: Cohort Section
330 Stuart Street
P.O. Box 9215
Boston, MA 02205

Ms. Sue Pottenger
(800) 999-9080 ext. 3209
pottenger@amsa.com

726—Michigan

Michigan Higher Education Assistance Authority
ATTN: Audit & Program Review Section
P.O. Box 30047
608 W. Allegan Road
Lansing, MI 48909

Mr. Dan Tryon
(517) 373-4981
tryond@state.mi.us

727—Minnesota

Great Lakes Higher Education Guaranty Corporation
ATTN: Claims and Compliance Manager
P.O. Box 7859
Madison, WI 53707

Ms. Lori Marty
(608) 246-1622
lmarty@glhec.org

728—Mississippi

USA Group Guarantee Services
ATTN: Ms. Kristi Mueller
11100 USA Parkway
Fishers, IN 46038

Ms. Kristi Mueller
(317) 595-1315
kmueller@usagroup.com

729—Missouri

Missouri Student Loan Program
ATTN: Associate for Compliance
3515 Amazonas Drive
Jefferson City, MO 65109-5717

Ms. Barbara Miller
(573) 751-8748
miller?cbhe400@admin.mocbhe.gov

730—Montana

Montana Guaranteed Student Loan Program
ATTN: Program Specialist
P.O. Box 203101
Helena, MT 59620-3101

Ms. Mary Rehm
(406) 444-0380
custserv@mgslp.state.mt.us

731—Nebraska

Nebraska Student Loan Program
ATTN: Manager, Program Review and Compliance
P.O. Box 82507
Lincoln, NE 68501-2507

Mr. Kevin Taylor or Ms. Alicia Chapelle
(402) 479-6718 or (402) 479-6743
kevint@nslp.org or aliciac@nslp.org

732—Nevada

USA Group Guarantee Services
ATTN: Ms. Kristi Mueller
11100 USA Parkway
Fishers, IN 46038

Ms. Kristi Mueller
(317) 595-1315
kmueller@usagroup.com

733—New Hampshire

New Hampshire Higher Education Assistance Foundation
ATTN: Director of Training and Compliance
P.O. Box 877
Concord, NH 03302-0877

Mr. Scott Littlefield
(603) 225-6612 ext. 120
scottnhheaf@compuserve.com

734—New Jersey

New Jersey Higher Education Assistance Authority
Office of Student Assistance
ATTN: Investigator II
P.O. Box 546
Trenton, NJ 08625-0546

Ms. Lee Roach
(609) 588-3238
lee_roach@osa.state.nj.us

735—New Mexico

New Mexico Student Loan Guarantee Corporation
ATTN: Compliance and Program Review Officer
P.O. Box 92230
3900 Osuna, N.E.
Albuquerque, NM 87199-2230

Ms. Carolyn Holder
(505) 345-8821 ext. 261
76733.2014@compuserve.com

736—New York

New York State Higher Education
Services Corporation
ATTN: Active Student Maintenance
99 Washington Avenue
Albany, NY 12255

Mr. Raymond Francis
(518) 473-1669
rfrancis@hesc.com

737—North Carolina

North Carolina State Education
Assistance Authority
ATTN: MICRS
P.O. Box 2688
Chapel Hill, NC 27515

Mr. Jim Williams
(919) 549-8614 x629
jfwill@ga.unc.edu

738—North Dakota

Student Loans of North Dakota
ATTN: Compliance Officer
P.O. Box 5524
Bismarck, ND 58506-5524

Ms. Char Feist
(701) 328-5753
cfeist@pioneer.state.nd.us

739—Ohio

NON-DEFAULTED LOANS
Great Lakes Higher Education Guaranty
Corporation
ATTN: Claims and Compliance
Manager
P.O. Box 7859
Madison, WI 53707

Ms. Lori Marty
(608) 246-1622
lmarty@glhec.org

DEFAULTED LOANS
U.S. Department of Education
ATTN: Cohort Default Rate Processing
Mail Stop 4145
6201 Interstate 30
Greenville, TX 75402-7419

(903) 408-4500

Note *This is the address for **FFEL** loans only. For the Direct Loans address, see Appendix B.*

740—Oklahoma

Oklahoma State Regents for Higher
Education
Guaranteed Student Loan Program
ATTN: Darlene Smith
P.O. Box 3000
Oklahoma City, OK 73101-3000

Ms. Darlene Smith
(405) 858-4300
gforgey@ogslp.org

741—Oregon

Oregon State Scholarship Commission
ATTN: Program Review
1500 Valley River Drive Suite 100
Eugene, OR 97401

Ms. Carolyn Sinclair
(541) 687-7375
carolyn.e.sinclair@state.or.us

742—Pennsylvania

Pennsylvania Higher Education Assistance Agency
ATTN: Program Review
1200 North 7th Street
HQ4
Harrisburg, PA 17102-1398

Ms. Lisa Hoffman
(717) 720-2740
lhoffman@pheaa.org

744—Rhode Island

Rhode Island Higher Education Assistance Authority
ATTN: Cohort Appeals
560 Jefferson Boulevard
Warwick, RI 02886-1320

Mr. Charles Totoro
(401) 736-1141
ctotoro@ids.net

745—South Carolina

South Carolina State Education Assistance Authority
ATTN: Mike Fox
Interstate Center, Suite 210
P.O. Box 210219
Columbia, SC 29221

Mr. Mike Fox
(803) 798-7960
mfox@slc.sc.edu

746—South Dakota

Education Assistance Corporation
ATTN: Supervisor for Pre-Claims and Collections
115 First Avenue S.W.
Aberdeen, SD 57401

Ms. Ellen Welke
(605) 225-6423
ewelke@eac-easci.org

747—Tennessee

Tennessee Student Assistance Corporation
ATTN: School Relations Specialist
404 James Robertson Parkway
Suite 1950, Parkway Towers
Nashville, TN 37243-0820

Ms. Stephanie Aylor
(615) 741-1346
lassiter@mail.state.tn.us

748—Texas

Texas Guaranteed Student Loan Corporation
ATTN: Compliance Analyst
P.O. Box 201725
Austin, TX 78720-1725

Mr. Ken Johnson
(512) 219-4701
ken.johnson@tgslc.org

749—Utah

Utah Higher Education Assistance Authority
ATTN: Manager of Compliance and Program Review
P.O. Box 45202
Salt Lake City, UT 84145-0202

Mr. Jed Spencer
(801) 321-7200
jspencer@utahsbr.edu

750—Vermont

Vermont Student Assistance Corporation
ATTN: Manager of School Policy and Compliance
P.O. Box 2000
Winooski, VT 05404-2601

Ms. Marcia Vance
(802) 654-3770 ext. 273
vance@vsac.org

751—Virginia

Educational Credit Management Corporation (ECMC)
ECMC Guarantee Servicing
ATTN: Program Compliance Specialist
411 East Franklin Street, Suite 300
Richmond, VA 23219-2243

Ms. Linda Woodley
(888) 775-3262 ext. 8024
lwoodley@ecmc.org

753—Washington

Northwest Education Loan Association
ATTN: School Compliance Representative
500 Coleman Building
811 1st Avenue
Seattle, WA 98104

Ms. Linda Shannon
(206) 461-5325
lindas@nela.net

755—Wisconsin

Great Lakes Higher Education Guaranty Corporation
ATTN: Claims and Compliance Manager
P.O. Box 7859
Madison, WI 53707

Ms. Lori Marty
(608) 246-1622
lmarty@glhec.org

772—Puerto Rico

Great Lakes Higher Education Guaranty Corporation
ATTN: Claims and Compliance Manager
P.O. Box 7859
Madison, WI 53707

Ms. Lori Marty
(608) 246-1622
lmarty@glhec.org

778—Virgin Islands

Great Lakes Higher Education Guaranty Corporation
ATTN: Claims and Compliance Manager
P.O. Box 7859
Madison, WI 53707

Ms. Lori Marty
(608) 246-1622
lmarty@glhec.org

800—USA Group Guarantee Services

USA Group Guarantee Services
ATTN: Ms. Kristi Mueller
11100 USA Parkway
Fishers, IN 46038

Ms. Kristi Mueller
(317) 595-1315
kmueller@usagroup.com

804—Arizona

USA Group Guarantee Services
ATTN: Ms. Kristi Mueller
11100 USA Parkway
Fishers, IN 46038

Ms. Kristi Mueller
(317) 595-1315
kmueller@usagroup.com

815—Hawaii

USA Group Guarantee Services
ATTN: Ms. Kristi Mueller
11100 USA Parkway
Fishers, IN 46038

Ms. Kristi Mueller
(317) 595-1315
kmueller@usagroup.com

927—Educational Credit Management Corporation (ECMC)

[Formerly Transitional Guaranty Agency (TGA)]

ECMC Guarantee Servicing
ATTN: Program Compliance Specialist
411 East Franklin Street, Suite 300
Richmond, VA 23219-2243

Ms. Linda Woodley
(888) 775-3262 ext. 8024
lwoodley@ecmc.org

American Samoa
(no number code)

USA Group Guarantee Services
ATTN: Ms. Kristi Mueller
11100 USA Parkway
Fishers, IN 46038

Ms. Kristi Mueller
(317) 595-1315
kmueller@usagroup.com

Guam (no number code)

USA Group Guarantee Services
ATTN: Ms. Kristi Mueller
11100 USA Parkway
Fishers, IN 46038

Ms. Kristi Mueller
(317) 595-1315
kmueller@usagroup.com

Federated States of Micronesia,
Marshall Islands, Republic of Palau
(no number code)

USA Group Guarantee Services
ATTN: Ms. Kristi Mueller
11100 USA Parkway
Fishers, IN 46038

Ms. Kristi Mueller
(317) 595-1315
kmueller@usagroup.com

Northern Mariana Islands
(no number code)

USA Group Guarantee Services
ATTN: Ms. Kristi Mueller
11100 USA Parkway
Fishers, IN 46038

Ms. Kristi Mueller
(317) 595-1315
kmueller@usagroup.com

Guaranty Agency Contact List (*Alphabetical*)

CONTACTING REPORTING GUARANTY AGENCIES

The list that follows contains, in **alphabetical order,** the names of states and territories served by guaranty agencies.

The number in the second column is the three-digit guaranty agency number code found on a school's loan record detail report for each loan record. See page 3 of this Appendix for a list of these three-digit codes in numerical order, followed by the names of the guaranty agencies represented by the codes, their addresses, telephone numbers, and points of contact for cohort default rate appeals.

State and/or Territory	Guaranty agency number code
Alabama	701
Alaska	702
American Samoa	no number code
Arizona	804
Arkansas	705
California	706
Colorado	708
Connecticut	709
Delaware	710
District of Columbia	611
Educational Credit Management Corporation (ECMC)	927
Federated States of Micronesia, Marshall Islands, and the Republic of Palau	no number code
Florida	712
Georgia	713

State and/or Territory	Guaranty agency number code
Hawaii	815
Idaho	716
Illinois	717
Indiana	718
Iowa	719
Kansas	620
Kentucky	721
Louisiana	722
Maine	723
Maryland	724
Massachusetts	725
Michigan	726
Minnesota	727
Mississippi	728
Missouri	729
Montana	730
Nebraska	731
Nevada	732
New Hampshire	733
New Jersey	734
New Mexico	735
New York	736
North Carolina	737
North Dakota	738
Northern Mariana Islands	no number code
Ohio	739
Oklahoma	740
Oregon	741
Pennsylvania	742
Puerto Rico	772
Rhode Island	744
South Carolina	745
South Dakota	746

State and/or Territory	Guaranty agency number code
Tennessee	747
Texas	748
Transitional Guaranty Agency (TGA)	927
U.S. Department of Education	555
USA Group Guarantee Services	800
Utah	749
Vermont	750
Virgin Islands	778
Virginia	751
Washington	753
West Virginia	654
Wisconsin	755
Wyoming	656

Direct Loan Servicer Contact

CONTACTING THE REPORTING DIRECT LOAN SERVICER

Direct Loan Servicing Center (0101)

U.S. Department of Education Direct Loan Program
ATTN: School Relations
501 Bleeker Street
Utica, New York 13501

(888) 877-7658

When submitting a request for data, a Direct Loan school **MUST** use its OPE ID number, **NOT** its Direct Loan School ID number (G code).

U.S. Department of Education Contacts

APPENDIX C

If you...	Contact...
Have questions about cohort default rate appeals and general cohort default rate issues	**If sent by commercial overnight mail/courier delivery, send your request to:** U.S. Department of Education Default Management Division (DMD) ROB-3, Room 3905 7th and D Streets, SW Washington, DC 20202 **If sent by U.S. Postal Service, send your request to:** U.S. Department of Education Default Management Division (DMD) ROB-3, Room 3905 600 Independence Avenue, SW Washington, DC 20202-5353 Questions? Call (202) 708-9396
Would like to e-mail DMD a question	IPOS_Default_Management_Division @ed.gov

Cohort default rate appeal submissions will NOT be accepted via e-mail.

If you...	Contact...
Need copies of the Department's regulations, "Dear Colleague" letters, or other student aid publications	U.S. Department of Education Federal Student Aid Information Center P.O. Box 84 Washington, DC 20044-0084 (800) 433-3243 http://ifap.ed.gov
Have questions about collection of individual defaulted loans assigned to the Department	U.S. Department of Education Debt Collection Service (DCS) Student Receivables Division ROB-3, Room 5118 600 Independence Avenue, SW Washington, DC 20202-5320 (800) 621-3115
Need information on lender or guaranty agency cohort default rates	U.S. Department of Education Guarantor and Lender Oversight Service (GLOS) ROB-3, Room 4616 600 Independence Avenue, SW Washington, DC 20202-5138 (202) 401-7482
Have questions about recertification, audit resolution, financial analysis, program review, and institution improvement	U.S. Department of Education Institutional Participation and Oversight Service (IPOS) ROB-3, Room 3915 7th and D Streets, SW Washington, DC 20407 (202) 205-0183

APPENDIX D

Abbreviations and Acronyms

These shortened forms often appear in cohort default rate loan record detail reports, on spreadsheets, and throughout various appeal instructions.

BCD	Beginning Class Date
BUD	Backup Data (Loan Record Detail Report)
CDR	Cohort Default Rate
CPD	Claim Paid Date
DD	Default Date
DER	Date Entered Repayment
DF	Default
DL	Direct Loan
DLS	Direct Loan Servicer
DMD	Default Management Division
ECD	Ending Class Date
FDLP	Federal Direct Loan Program
FFEL	Federal Family Education Loan
GA	Guaranty Agency
ICR	Income Contingent Repayment
ICRD	Income Contingent Repayment Date
LDA	Last Day of Attendance
LTH	Less-Than-Half-Time
LS&T	Limitation, Suspension, or Termination
LRDR	Loan Record Detail Report
Neg-am	Negative Amortization
NSLDS	National Student Loan Data System
OSD	Out of School Date
SLS	Supplemental Loan for Students
SSCR	Student Status Confirmation Report
SSL	Subsidized Stafford Loan
SF	Stafford

Note For loan status codes and claim reason codes used in the Loan Record Detail Report, see pages 25 and 26, respectively.

Pertinent Parts of the HEA and Related Regulations

APPENDIX E

Contents

Appendix E1

Higher Education Act of 1965, As Amended (HEA) 3

HEA of 1965, Sec. 435—Definitions for Student Loan Insurance Program 3

Appendix E2

Regulations Governing Default Reduction and Prevention Measures 9

34 Code of Federal Regulations (CFR), Sec. 668.17—Default Reduction and Prevention Measures 9

Higher Education Act of 1965, as amended (HEA)

APPENDIX E1

[This section is an unofficial version of portions of Section 435 of the HEA of 1965. The Department has made every effort to ensure the accuracy of this statute contained in this unofficial version. However, the official version of this statute is found in the ***United States Code****.]*

SEC. 435. DEFINITIONS FOR STUDENT LOAN INSURANCE PROGRAM.

As used in this part

a) Eligible institution --

Eligible institution

(1) **IN GENERAL.--**

Except as provided in paragraph (2), the term "eligible institution" means an institution of higher education, as defined in section 481, except that, for the purposes of sections 427(a)(2)(C)(i) and 428(b)(1)(M)(i), an eligible institution includes any institution that is within this definition without regard to whether such institution is participating in any program under this title and includes any institution ineligible for participation in any program under this part pursuant to paragraph (2) of this subsection.

(2) **Ineligibility based on high default rates.--**

Loss of eligibility based on high cohort default rates

(A) **An institution whose cohort default rate is equal to or greater than the threshold percentage specified in subparagraph (B) for each of the three most recent fiscal years for which data are available shall not be eligible to participate in a program under this part for the fiscal year for which the determination is made and for the two**

Appealing loss of eligibility

succeeding fiscal years, unless, within 30 days of receiving notification from the Secretary of the loss of eligibility under this paragraph, the institution appeals the loss of its eligibility to the Secretary. The Secretary shall issue a decision on any such appeal within 45 days after its submission. Such decision may permit the institution to continue to participate in a program under this part if--

Erroneous data

(i) the institution demonstrates to the satisfaction of the Secretary that the Secretary's calculation of its cohort default rate is not accurate, and that recalculation would reduce its cohort default rate for any of the three fiscal years below the threshold percentage specified in subparagraph (B); or

Exceptional mitigating circumstances

(ii) there are, in the judgment of the Secretary, exceptional mitigating circumstances that would make the application of this paragraph inequitable.

During such appeal, the Secretary may permit the institution to continue to participate in a program under this part.

Cohort default rate threshold

(B) For purposes of determinations under subparagraph (A), the threshold percentage is--

(i) 35 percent for fiscal year 1991 and 1992;

(ii) 30 percent for fiscal year 1993; and

(iii) 25 percent for any succeeding fiscal year.

Institutions exempt from loss of eligibility based on cohort default rates

(C) Until July 1, 1998, this paragraph shall not apply to any institution that is--

(i) a part B institution within the meaning of section 322(2) of this Act;

(ii) a tribally controlled community college within the meaning of section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978; or

(iii) a Navajo Community College under the Navajo Community College Act.

(3)[1] Appeals Based Upon Allegations of Improper Loan Servicing.--An institution that--

Improper loan servicing

(A) is subject to loss of eligibility for the Federal Family Education Loan Program pursuant to paragraph (2)(A) of this subsection;

(B) is subject to loss of eligibility for the Federal Supplemental Loans for Students pursuant to section 428A(a)(2); or

(C) is an institution whose cohort default rate equals or exceeds 20 percent for the most recent year for which data are available;

Institutional access to loan servicing and collection records

may include in its appeal of such loss or rate a defense based on improper loan servicing (in addition to other defenses). In any such appeal, the Secretary shall take whatever steps are necessary to ensure that such institution has access to a representative sample (as determined by the Secretary) of the relevant loan servicing and collection records of the affected guaranty agencies and loan servicers for a reasonable period of time, not to exceed 30 days. The Secretary shall reduce the institution's cohort default rate to reflect the percentage of defaulted loans in the representative sample that are required to be excluded pursuant to subsection (m)(1)(B).

[*Sections (d) through (f) and (i) through (l) have not been reprinted here and Sections (b), (c), (g), and (h) have been repealed.*]

(m) Cohort Default Rate.--

Definition of cohort default rate

(1) In General.--

(A) Except as provided in paragraph (2), the term "cohort default rate" means, for any fiscal year in which 30 or more current and former students at the institution enter repayment on loans under section 428, 428A, or 428H, received for attendance at the institution, the percentage of those current and former students who enter repayment on such loans (or on the portion of a loan made under section 428C that is used to repay any such loans) received for

1. Section 5(b)(8) of the Higher Education Technical Amendments of 1993 provides as follows: (8) Cohort default rate determinations.--The amendments made to subsection (a)(3) and (m)(1)(B) of section 435 of this Act shall apply with respect to the determination (and appeals from determinations) of cohort default rates for fiscal year 1989 and any succeeding fiscal year.

attendance at that institution in that fiscal year who default before the end of the following fiscal year. The Secretary shall require that each guaranty agency that has insured loans for current or former students of the institution afford such institution a reasonable opportunity (as specified by the Secretary) to review and correct errors in the information required to be provided to the Secretary by the guaranty agency for the purposes of calculating a cohort default rate for such institution, prior to the calculation of such rate.

Determining the number of students who default

(B) In determining the number of students who default before the end of such fiscal year, the Secretary shall include only loans for which the Secretary or a guaranty agency has paid claims for insurance, and, in considering appeals with respect to cohort default rates pursuant to subsection (a)(3), exclude any loans which, due to improper servicing or collection, would, as demonstrated by the evidence submitted in support of the institution's timely appeal to the Secretary, result in an inaccurate or incomplete calculation of such cohort default rate.

Cohort default rate for schools with fewer than 30 borrowers

(C) For any fiscal year in which fewer than 30 of the institution's current and former students enter repayment, the term "cohort default rate" means the percentage of such current and former students who entered repayment on such loans (or on the portion of a loan made under section 428C that is used to repay any such loans) in any of the three most recent fiscal years, who default before the end of the fiscal year immediately following the year in which they entered repayment.

Special rules

(2) Special Rules.--

(A) In the case of a student who has attended and borrowed at more than one school, the student (and such student's subsequent repayment or default) is attributed to each school for attendance at which the student received a loan that entered repayment in the fiscal year.

(B) A loan on which a payment is made by the school, such school's owner, agent, contractor, employee, or any other entity or individual affiliated with such school, in order to avoid default by the borrower, is considered as in default for purposes of this subsection.

(C) Any loan which has been rehabilitated before the end of such following fiscal year is not considered as in default for the purposes of this subsection.

(D) For the purposes of this subsection, a loan made in accordance with section 428A (or the portion of a loan made under section 428C that is used to repay a loan made under section 428A) shall not be considered to enter repayment until after the borrower has ceased to be enrolled in a course of study leading to a degree or certificate at an eligible institution on at least a half-time basis (as determined by the institution) and ceased to be in a period of forbearance based on such enrollment. Each eligible lender of a loan made under section 428A (or a loan made under section 428C a portion of which is used to repay a loan made under section 428A) shall provide the guaranty agency with the information necessary to determine when the loan entered repayment for purposes of this subsection, and the guaranty agency shall provide such information to the Secretary.

(3) Regulations to Prevent Evasions.--

The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a default rate determination under this subsection through the use of such measures as branching, consolidation, change of ownership or control, or any similar device.

(4) Collection and Reporting of Cohort Default Rates.--

Collecting and reporting official cohort default rates

(A) The Secretary shall collect data from all insurers under this part and shall publish not less often than once every fiscal year a report showing default data for each category of institution, including

(i) 4-year public institutions,

(ii) 4-year private institutions,

(iii) 2-year public institutions,

(iv) 2-year private institutions,

(v) 4-year proprietary institutions,

(vi) 2-year proprietary institutions, and

(vii) less than 2-year proprietary institutions.

(B) The Secretary may designate such additional subcategories within the categories specified in subparagraph (A) as the Secretary deems appropriate.

(C) The Secretary shall publish not less often than once every fiscal year a report showing default data for each institution for which a cohort default rate is calculated under this subsection.

[*Section (n) has been repealed.* Section (o) is not reprinted here.]

APPENDIX E2

Regulations Governing Default Reduction and Prevention Measures

[*This section is an unofficial version of 34 CFR 668.17. The Department has made every effort to ensure the accuracy of the regulations contained in this unofficial version. However, the only official versions of this regulation are those published in the* ***Federal Register*** *and in the* ***Code of Federal Regulations***.]

SEC. 668.17 DEFAULT REDUCTION AND PREVENTION MEASURES.

(a) Default rates.

(1) If the FFEL Program cohort default rate, Direct Loan Program cohort rate, or if applicable, weighted average cohort rate for an institution exceeds 20 percent for any fiscal year, the Secretary notifies the institution of that rate.

Notification to schools with cohort default rates greater than 20 percent

(2) The Secretary may initiate a proceeding under subpart G of this part to limit, suspend, or terminate the participation of an institution in the Title IV, HEA programs, if the institution has an FFEL Program cohort default rate, Direct Loan Program cohort rate, or a weighted average cohort rate that exceeds 40 percent for any fiscal year.

Possible limitation, suspension, or termination (LS&T) for schools with cohort default rates greater than 40.0 percent

(3) Unless an institution is subject to loss of eligibility to participate in the FFEL Program under paragraph (b)(1) of this section, the Secretary initiates a proceeding under subpart G of this part to limit, suspend, or terminate an institution's participation in the FFEL Program if the institution, for each of the three most recent consecutive fiscal years, has any combination of an FFEL Program cohort default rate, a Direct Loan Program cohort rate, or weighted average cohort rate that is equal to or greater than 25 percent.

(4) The Secretary may require an institution that meets the criteria under paragraph (a)(2) of this section to submit to the Secretary, within a time frame determined by the Secretary, any reasonable information to help the Secretary make a preliminary determination as to what action should be taken against the institution.

(5) The Secretary ceases any limitation, suspension, or termination action against an institution under this paragraph if the institution satisfactorily demonstrates to the Secretary that, pursuant to an appeal that is complete and timely submitted under paragraph (c) of this section, the institution meets one of the exceptional mitigating circumstances under paragraph (c)(1)(ii)(B) of this section.

(b) End of participation.

End of participation in FFEL Program and/or Direct Loan Program for cohort default rates that exceed thresholds

(1) Except as provided in paragraph (b)(6) of this section, an institution's participation in the FFEL Program ends 30 calendar days after the date the institution receives notification from the Secretary that its FFEL Program cohort default rate for each of the three most recent fiscal years for which the Secretary has determined the institution's rate, is equal to or greater than 25 percent.

(2) Except as provided in paragraph (b)(6) of this section, an institution's participation in the Direct Loan Program ends 30 calendar days after the date the institution receives notification from the Secretary that for each of the three most recent fiscal years the institution has any combination of an FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate that is equal to or greater than 25 percent.

(3) Except as provided in paragraph (b)(6) of this section, an institution's participation in the FFEL Program or Direct Loan Program ends under paragraph (b) (1) or (2) of this section respectively may not participate in that program on or after the 30th calendar day after the date it receives notification from the Secretary that its FFEL Program cohort default rate, Direct Loan Program cohort rate, or, if applicable, weighted average cohort rate exceeds the thresholds specified in paragraph (b)(1) or (2) of this section and continuing--

Period during which institutions with cohort default rates over thresholds are ineligible to participate in FFEL Program and/or Direct Loan Program

(i) For the remainder of the fiscal year in which the Secretary determines that the institution's participation has ended under paragraph (b) (1) or (2) of this section; and

(ii) For the two subsequent fiscal years.

(4) An institution whose participation in the FFEL Program or Direct Loan Program ends under paragraph (b)(1) or (2) of this section may not participate in that program until the institution satisfies the Secretary that the institution meets all requirements for participation in the FFEL Program or Direct Loan Program and executes a new agreement with the Secretary for participation in that program following the period described in paragraph (b)(3) of this section.

Institutions that are exempt from cohort default rate sanctions

(5) Until July 1, 1998, the provisions of paragraph (b)(1) or (2) of this section and the provisions of 34 CFR 668.16(m) do not apply to a historically black college or university within the meaning of section 322(2) of the HEA, a tribally controlled community college within the meaning of section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978, or a Navajo community college under the Navajo Community College Act.

(6) An institution may, notwithstanding 34 CFR 668.26, continue to participate in the FFEL Program or Direct Loan Program until the Secretary issues a decision on the institution's appeal if the Secretary receives an appeal that is complete, accurate, and timely in accordance with paragraph (c) of this section.

Appeal procedures and time frames

(c) Appeal procedures.

(1) An institution may appeal the loss of participation in the FFEL Program or Direct Loan Program under paragraph (b)(1) or (2) of this section by submitting an appeal in writing to the Secretary by the 30th calendar day following the date the institution receives notification of the end of participation. An appeal or any portion of an appeal under this section will not be accepted after the 30th calendar day following the date the institution receives notification from the Secretary that it has lost its eligibility to participate in the FFEL or Direct Loan programs, except that an institution may submit an appeal under section (c)(1)(i) of this section later than the 30th calendar day if the appeal is submitted in accordance with paragraph (c)(8) and the information required by paragraph (c)(7) may be submitted in accordance with that paragraph. The appeal must include all information required by the Secretary to substantiate the appeal and all information must be submitted in a format prescribed by the Secretary. The additional 30-day period specified in paragraph (c)(7) of this

section is an extension for the submission of the auditor's statement only and does not affect the date by which the appeal data must be submitted. An institution that is eligible for an extension under paragraph (c)(8) of this section must submit all required data within five working days following the agency's response to the institution's request for verification of data. The institution may appeal on the grounds that--

Erroneous data appeal

(i) (A) The calculation of the institution's FFEL Program cohort default rate, Direct Loan Program cohort rate, or, if applicable, weighted average cohort rate, for any of the three fiscal years relevant to the end of participation is not accurate; and

(B) A recalculation of the institution's FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate, with corrected data verified by the cognizant guaranty agency or agencies for the FFEL Program loans, or the Secretary for Direct Loan Program loans, would produce an FFEL Program cohort default rate, a Direct Loan Program cohort rate, or weighted average cohort rate for any of those fiscal years that is below the threshold percentage specified in paragraph (b) (1) or (2) of this section; or

Exceptional mitigating circumstances appeal

(ii) The institution meets one of the following exceptional mitigating circumstances:

Participation rate index criterion

(A) The institution has a participation rate index of 0.0375 or less. The participation rate index is determined by multiplying the institution's FFEL Program cohort default rate, Direct Loan Program cohort rate or weighted average cohort rate, by the percentage of the institution's regular students, as defined in 34 CFR 600.2, enrolled on at least a half-time basis who received a loan made under either the FFEL Program or Direct Loan Program for a 12-month period that has ended during the six months immediately preceding the fiscal year for which the cohort of borrowers used to calculate the institution's rate is determined. An institution that has an FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate that exceeds 40 percent may not appeal its loss of eligibility under paragraphs (b) (1) or (2) of this section on the basis of its participation rate index.

(B) For a 12-month period that has ended during the six months immediately preceding the fiscal year for which the cohort of borrowers used to calculate the institution's rate is determined, 70 percent or more of the institution's regular students, as defined in 34 CFR 600.2, are individuals from disadvantaged economic backgrounds, as established by documentary evidence submitted by the institution. Such evidence must relate to either qualification by those students for an expected family contribution (EFC) of zero for any award year that generally coincides with the 12-month period, or attribution to those students of an adjusted gross income of the student and his or her parents or spouse, if applicable, reported for any award year that generally coincides with the 12-month period, of less than the poverty level, as determined under criteria established by the Department of Health and Human Services; and,

Economically disadvantaged rate

(1) For a **degree-granting** institution, 70 percent or more of the institution's regular students who were initially enrolled on a full-time basis and were scheduled to complete their programs during the same 12-month period the institution has chosen to determine the percentage of its students that come from disadvantaged economic backgrounds under paragraph (c)(1)(ii)(B) of this section, completed the educational programs in which they were enrolled. This rate is calculated by comparing the number of regular students who were classified as full-time at their initial enrollment in the institution and were originally scheduled, at the time of enrollment, to complete their programs within the relevant 12-month period, with the number of these students who received a degree from the institution; transferred from the institution to a higher level educational program; or, at the end of the 12-month period, remained enrolled and were making satisfactory academic progress toward completion of their educational programs; or

Completion rate for degree-granting schools

(2) For a **non-degree-granting** institution, the institution had a placement rate of 50 percent or more with respect to its former regular students who remained in the program beyond the point the students would have received a 100 percent tuition refund from the institution. A student or former

Placement rate for non-degree-granting schools

student may not be considered successfully placed if the institution is the student's or former student's employer. This rate is based on those regular students who were initially enrolled on at least a half-time basis and were originally scheduled, at the time of enrollment, to complete their educational programs during the same 12-month period the institution has chosen to determine the percentage of its students that come from disadvantaged economic backgrounds under paragraph (c)(1)(ii)(B) of this section. This rate does not include those students who are still enrolled and making satisfactory progress in the educational programs in which they were originally enrolled on the date following 12 months after the date of the student's last day of attendance. This rate is calculated by determining the percentage of all those former regular students who;

(i) Are employed in an occupation for which the institution provided training on the date following 12 months after the date of their last day of attendance at the institution; or

(ii) Were employed in an occupation for which the institution provided training for at least 13 weeks before the date following 12 months after the date of their last day of attendance at the institution.

Scheduled to complete

(2) For purposes of the completion rate and placement rate described in paragraph (c)(1)(ii)(B) (1) and (2) of this section, a student is originally scheduled, at the time of enrollment, to complete the educational program on the date when the student will have been enrolled in the program for the amount of time normally required to complete the program. The "amount of time normally required to complete the program" for a student who is initially enrolled full-time is the period of time specified in the institution's enrollment contract, catalog, or other materials, for completion of the program by a full-time student, or the period of time between the original date of enrollment and the anticipated graduation date appearing on the student's loan application, if any, whichever is less. The "amount of time normally required to complete the program" for a student who is initially enrolled less than full-time is the amount of time it would take that student to complete the program if the student remained enrolled at that level of enrollment.

(3) The Secretary issues a decision on the institution's appeal within 45 calendar days after the institution submits a complete appeal that addresses the applicable criteria in paragraph (c)(1) (i) or (ii) of this section to the Secretary.

(4) The Secretary's decision is based on the consideration of written material submitted by the institution. No oral hearing is provided.

(5) The Secretary withdraws the notification of loss of participation in the FFEL Program or Direct Loan Program sent to an institution under paragraph (b) (1) or (2) of this section, if he determines that the institution's appeal satisfies one of the exceptional mitigating circumstances specified in paragraph (c)(1) (i) or (ii) of this section.

(6) An institution must include in its appeal a certification, under penalty of perjury, by the institution's chief executive officer that all information provided by the institution in support of its appeal is true and correct.

Required certification by the school's chief executive officer

(7) An institution that appeals on the grounds that it meets the exceptional mitigating circumstances criteria contained in paragraph (c)(1)(ii) of this section must include in its appeal an opinion from an independent auditor on management's assertions that the information contained in the appeal is complete, accurate, and determined in accordance with the requirements of this section. The examination level engagement will be performed in accordance with Statement on Standards for Attestation Engagements #3. This opinion must be received by the Secretary within 60 days following the date the institution receives notification of its loss of eligibility under paragraph (b) of this section.

Independent auditor attestation requirement

(8) An institution that appeals under paragraph (c)(1)(i) of this section will not lose its eligibility to continue to participate during the appeal process due to a guaranty agency's failure to comply with 34 CFR 682.401(b)(14) which requires the agency to respond to an institution's request for verification of data within 15 working days, provided the institution:

Guaranty agency's failure to timely respond to school's request for verification of data

(i) Requested such verification within 10 working days from the date it received notification of its loss of eligibility under paragraph (b) of this section; and

School's timely initiated appeals

(ii) Provided a copy of the request for verification of data to the Secretary at the same time it requested such verification by the relevant guaranty agency(ies).

FFEL Program cohort default rate

(d) FFEL Program Cohort Default Rate.

(1)(i) For purposes of the FFEL Program, except as provided in paragraph (d)(1)(ii) of this section, the term FFEL Program cohort default rate means

(A) For any fiscal year in which **30 or more** current and former students at the institution enter repayment on Federal Stafford loans or Federal SLS loans (or on the portion of a loan made under the Federal Consolidation Loan Program or Direct Consolidation Loan Program that is used to repay such loans) received for attendance at the institution, the percentage of those current and former students who enter repayment in that fiscal year on those loans who default before the end of the following fiscal year; or

(B) For any fiscal year in which **fewer than 30** of the institution's current and former students enter repayment on Federal Stafford loans or Federal SLS loans (or on the portion of a loan made under the Federal Consolidation Loan Program or Direct Consolidation Loan Program that is used to repay such loans) received for attendance at the institution, the percentage of those current and former students who entered repayment on such loans in any of the three most recent fiscal years, who default before the end of the fiscal year immediately following the fiscal year in which they entered repayment.

Determining FFEL Program defaults

(C) In determining the number of students who default before the end of that following fiscal year, the Secretary includes only loans for which the Secretary or a guaranty agency has paid claims for insurance, and Direct Consolidation Loan Program loans that repaid FFEL Program loans that entered default.

(ii)(A) In the case of a student who has attended and borrowed at more than one institution, the student (and his or her subsequent repayment or default) is attributed to each institution for attendance at which the student received a loan that entered repayment in the fiscal year.

(B) A loan on which a payment is made by the institution, its owner, agent, contractor, employee, or any other affiliated entity or individual, in order to avoid default by the borrower, is considered as in default for purposes of this definition.

Schools that pay on loans to avoid borrower default

(C) Any loan that has been rehabilitated under section 428F of the HEA before the end of that following fiscal year is not considered as in default for purposes of this definition.

Rehabilitated loans

(D) For the purposes of this definition, an SLS loan made in accordance with section 428A of the HEA (or a loan made under the Federal Consolidation Loan Program or Direct Consolidation Loan Program, a portion of which is used to repay a Federal SLS loan) shall not be considered to enter repayment until after the borrower has ceased to be enrolled in an educational program leading to a degree, certificate, or other recognized educational credential at the participating institution on at least a half-time basis (as determined by the institution) and ceased to be in a period of forbearance or deferment based on such enrollment. Each eligible lender of a loan made under section 428A (or a loan made under the Federal Consolidation Loan Program, a portion of which is used to repay a Federal SLS loan) of the HEA shall provide the guaranty agency with the information necessary to determine when the loan entered repayment for purposes of this definition, and the guaranty agency shall provide that information to the Secretary.

Date entered repayment for SLS Loans

(2) Fiscal year means the period from and including October 1 of a calendar year through and including September 30 of the following calendar year.

Fiscal year

(e) Direct Loan Program cohort rate.

(1) For purposes of the Direct Loan Program, except as provided in paragraph (e)(2) of this section, the Secretary calculates Direct Loan Program cohort rates using the following formulas:

Direct Loan Program cohort default rates for degree-granting schools

(i) For **public institutions, private nonprofit institutions, or proprietary degree-granting institutions**--

(A) For any fiscal year in which **30 or more** current and former students at the institution enter repayment on a

Direct Loan Program loan (or on the portion of a loan made under the Federal Direct Consolidation Loan Program that is used to repay those loans) received for attendance at the institution, the percentage of those current and former students who enter repayment in that fiscal year on those loans who are in default before the end of the following fiscal year; or

(B) For any fiscal year in which **fewer than 30** of the institution's current and former students enter repayment on a Direct Loan Program loan (or on the portion of a loan made under the Federal Direct Consolidation Loan Program that is used to repay those loans) received for attendance at the institution, the percentage of those current and former students who entered repayment on those loans in any of the three most recent fiscal years, who are in default before the end of the fiscal year immediately following the year in which they entered repayment.

Direct Loan Program cohort rate for proprietary non-degree-granting schools

(ii) For **proprietary non-degree-granting institutions**--

(A) For any fiscal year in which **30 or more** current and former students at the institution enter repayment on a Direct Loan Program loan (or on the portion of a loan made under the Federal Direct Consolidation Loan Program that is used to repay those loans) received for attendance at the institution, the percentage of those current and former students who enter repayment in that fiscal year on those loans who are in default before the end of the following fiscal year, or who, before the end of that following fiscal year, have for 270 days: been in repayment under the income-contingent repayment plan with scheduled payments that are less than 15 dollars per month and those payments result in negative amortization; or

(B) For any fiscal year in which **fewer than 30** of the institution's current and former students enter repayment on a Direct Loan Program loan (or on the portion of a loan made under the Federal Direct Consolidation Loan Program that is used to repay those loans) received for attendance at the institution, the percentage of those current and former students who entered repayment on those loans in any of the three most recent fiscal years, who are in default before the end of the fiscal year immediately following the year in which they entered

repayment, or who, before the end of that following fiscal year, have for 270 days: been in repayment under the income-contingent repayment plan with scheduled payments that are less than 15 dollars per month and those payments result in negative amortization.

(2) (i) In the case of a student who has attended and borrowed at more than one institution, the student (and his or her subsequent repayment or default) is attributed to each institution for attendance at which the student received a loan that entered repayment in the fiscal year.

Students who attend and borrow at more than one school

(ii) A loan on which a payment is made by the institution, its owner, agent, contractor, employee, or any other affiliated entity or individual, in order to avoid default by the borrower, is considered as in default for purposes of this definition.

Schools that pay on loans to avoid borrower defaults

(iii) Any loan on which the borrower has made 12 consecutive monthly on-time payments under 34 CFR 685.211(e) before the end of that following fiscal year is not considered as in default for purposes of this definition.

Rehabilitated loans

(3) For purposes of an institution's Direct Loan cohort rate, a Direct Loan Program loan is considered in default when the borrower's or endorser's failure to make an installment payment when due has persisted for 270 days.

(f)(1) Weighted average cohort rate.

For purposes of an institution that has former students entering repayment in a fiscal year on both Direct Loan Program and FFEL Program loans, except as provided under paragraph (f)(2) of this section, the Secretary calculates a weighted average cohort rate using the following formulas:

(i) For **public institutions, private nonprofit institutions, or proprietary degree-granting institutions**--

Dual-program cohort default rates for degree-granting schools

(A) For any fiscal year in which **30 or more current** and former students at the institution enter repayment on an FFEL Program or Direct Loan Program loan (or on the portion of a loan made under the Federal Consolidation Loan Program or Federal Direct Consolidation Loan Program that is used to repay those loans) received for attendance at the institution, the percentage of those current and former students who enter repayment in that fiscal year on those loans who are in default before the

end of the following fiscal year; and

(B) For any fiscal year in which **fewer than 30** of the institution's current and former students enter repayment on an FFEL Program or Direct Loan Program loan (or on the portion of a loan made under the Federal Consolidation Loan Program or Federal Direct Consolidation Loan Program that is used to repay such loans) received for attendance at the institution, the percentage of those current and former students who entered repayment on such loans in the three most recent fiscal years, who are in default before the end of the fiscal year immediately following the year in which they entered repayment.

(ii) For **proprietary non-degree-granting institutions**--

Dual-program cohort rates for proprietary non-degree-granting schools

(A)For any fiscal year in which **30 or more** current and former students at the institution enter repayment on an FFEL Program or Direct Loan Program loan (or on the portion of a loan made under the Federal Consolidation Loan or Federal Direct Consolidation Loan Program that is used to repay those loans) received for attendance at the institution, the percentage of those current and former students who enter repayment in that fiscal year on such loans who are in default before the end of the following fiscal year, or who, before the end of that following fiscal year, have for 270 days: been in repayment under the income-contingent repayment plan with scheduled payments that are less than 15 dollars per month and those payments result in negative amortization; or

(B) For any fiscal year in which **fewer than 30** of the institution's current and former students enter repayment on an FFEL Program or Direct Loan Program loan (or on the portion of a loan made under the Federal Consolidation Loan Program or Federal Direct Consolidation Loan Program that is used to repay those loans) received for attendance at the institution, the percentage of those current and former students who entered repayment on those loans in any of the three most recent fiscal years, who are in default before the end of the fiscal year immediately following the year in which they entered repayment, or who, before the end of that following fiscal year, have for 270 days: been in

repayment under the income-contingent repayment plan with scheduled payments that are less than 15 dollars per month and those payments result in negative amortization.

(2) (i) In the case of a student who has attended and borrowed at more than one institution, the student (and his or her subsequent repayment or default) is attributed to each institution for attendance at which the student received a loan that entered repayment in the fiscal year.

Students who attend and borrow at more than one school

(ii) A loan on which a payment is made by the institution, its owner, agent, contractor, employee, or any other affiliated entity or individual, in order to avoid default by the borrower, is considered as in default for purposes of this definition.

Schools that pay on loans to avoid borrower default

(iii) Any Direct Loan Program loan on which the borrower has made 12 consecutive monthly on-time payments under 34 CFR 685.211(e) or has an FFEL Program loan that has been rehabilitated under section 428F of the HEA before the end of that following fiscal year is not considered as in default for purposes of this definition.

Rehabilitated loans

(3) For purposes of an institution's weighted average cohort rate, a Direct Loan Program loan is considered in default when a borrower's or endorser's failure to make an installment payment when due has persisted for 270 days.

Determining Direct Loan Program defaults

(g) Applicability of Rates to Institutions.

(1) (i) An FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate of an institution applies to all locations of the institution as the institution exists on the first day of the fiscal year for which the rate is calculated.

(ii) An FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate of an institution applies to all locations of the institution from the date the institution is notified of that rate until the institution is notified by the Secretary that the rate no longer applies.

(2) (i) For an institution that changes its status from that of a location of one institution to that of a free-standing

Cohort default rates for schools that change status

institution, the Secretary determines the FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate, based on the institution's status as of October 1 of the the fiscal year for which the rate is being calculated.

(ii) For an institution that changes its status from that of a free-standing institution to that of a location of another institution, the Secretary determines the FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate, based on the combined number of students who enter repayment during the applicable fiscal year and the combined number of students who default during the applicable fiscal years from both the former free-standing institution and the other institution. This rate applies to the new, consolidated institution and all of its current locations.

(iii) For free-standing institutions that merge to form a new, consolidated institution, the Secretary determines the FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate based on the combined number of students who enter repayment during the applicable fiscal year and the combined number of students who default during the applicable fiscal years from all of the institutions that are merging. This rate applies to the new consolidated institution.

(iv) For a location of one institution that becomes a location of another institution, the Secretary determines the FFEL Program cohort default rate, Direct Loan Program cohort rate, or weighted average cohort rate based on the combined number of students who enter repayment during the applicable fiscal year and the number of students who default during the applicable fiscal years from both of the institutions in their entirety, not limited solely to the respective locations.

Improper loan servicing and collection appeal

(h) Appeal based on allegations of improper loan servicing or collection--

(1) General.

An institution that is subject to loss of participation in the FFEL programs under paragraph (a)(1) of this section or has been notified by the Secretary that its cohort default rate equals or exceeds 20 percent for the most recent year for which data are

available may include in its appeal of that loss or rate a challenge based on allegations of improper loan servicing or collection. This challenge may be raised in addition to other challenges permitted under this section.

(2) Standard of review.

An appeal based on allegations of improper loan servicing or collection must be submitted to the Secretary in accordance with the requirements of this paragraph. The Secretary excludes any loans from the cohort default rate calculation which, due to improper servicing or collection, would, as demonstrated by the evidence submitted in support of the institution's timely appeal to the Secretary, result in an inaccurate or incomplete calculation of the cohort default rate.

(3) Procedures.

(i) The following procedures apply to appeals from cohort default rates issued by the Secretary during Federal fiscal year 1994 and subsequent years. Upon receiving notice from the Secretary that the institution's cohort default rate exceeds the thresholds specified in paragraph (c)(2) of this section or that its most recent cohort default rate equals or exceeds 20 percent, the institution may appeal the calculation of the cohort default rate based on allegations of improper loan servicing or collection. The Secretary's notice includes a list of all borrowers included in the calculation of the institution's cohort default rate.

Initiating a loan servicing and collection appeal

(ii) To initiate an appeal under this paragraph, the institution must notify, in writing, the Secretary and each guaranty agency that guaranteed loans included in the institution's cohort default rate that it is appealing the calculation of the cohort default rate. The notification must be received by the guaranty agency and the Secretary within 10 working days of the date the institution received the Secretary's notification. The institution's notification to the guaranty agency must include a copy of the list of students provided by the Secretary to the institution.

(iii) Within 15 working days of receiving the notification from an institution subject to loss of participation in the FFEL programs under paragraph (a)(1), or within 30 calendar days of receiving such notification from any other institution that may file a challenge to its default rate under this

paragraph, the guaranty agency must provide the institution with a representative sample of the loan servicing and collection records relating to borrowers whose loans were guaranteed by the guaranty agency and that were included as defaulted loans in the calculation of the institution's cohort default rate. For purposes of this section, the term "loan servicing and collection records" refers only to the records submitted by the lender to the guaranty agency to support the lender's submission of a default claim and included in the claim file. In selecting the representative sample of records, the guaranty agency must use the following procedures:

(A) The guaranty agency shall list in social security number order all loans made to borrowers for attendance at the institution and guaranteed by the guaranty agency and included as defaulted loans in the calculation of the cohort default rate which is being challenged by the institution.

Selecting a representative sample of loan servicing records

(B) From the population of loans identified by the guaranty agency, the guaranty agency shall identify a sample of the loans. The sample must be of a size such that the universe estimate derived from the sample is acceptable at a 95 percent confidence level with a plus or minus 5 percent confidence interval. The sampling procedure must result in a determination of the number of loans that should be excluded from the calculation of the cohort default rate under this paragraph.

(C) Once the sample of loans has been established, the guaranty agency shall provide a copy of all servicing and collection records relating to each loan in the sample to the institution in hard copy format unless the guaranty agency and institution agree that all or some of the records can be provided in another format.

Fee for loan servicing records

(D) The guaranty agency may charge the institution a reasonable fee for copying and providing the documents, not to exceed $10 per borrower file.

(E) After compiling the servicing and collection records for the loans in the sample, the guaranty agency shall send the records, a list of the loans included in the sample, and a description of how the sample was chosen to the institution. The guaranty agency shall also send a copy of the list of the loans included in the sample, listed in

order by social security number, and the description of how the sample was chosen to the Secretary at the same time the material is sent to the institution.

Paying a fee for loan servicing records

(F) If the guaranty agency charges the institution a fee for copying and providing the documents under paragraph (f)(iii)(D) of this section, the guaranty agency is not required to provide the documents to the institution until payment is received by the agency. If payment of a fee is required, the guaranty agency shall notify the institution, in writing, within 15 working days of receipt of the institution's request, of the amount of the fee. If the guaranty agency does not receive payment of the fee from the institution within 15 working days of the date the institution received notice of the fee, the institution shall be considered to have waived its right to challenge the calculation of its cohort default rate based on allegations of improper loan servicing or collection in regard to loans guaranteed by that guaranty agency. The guaranty agency shall notify the institution and the Secretary, in writing, that the institution has failed to pay the fee and has apparently waived its right to challenge the calculation of the cohort default rate. The Secretary will determine that an institution which does not pay the required fee to the guaranty agency has not met its burden of proof in regard to the loans insured by that guaranty agency unless the institution proves that the agency's conclusion that the institution waived its appeal was incorrect.

Time frame for submitting loan servicing appeal to the Department

(iv) After receiving the relevant loan servicing and collection records from all of the guaranty agencies that insured loans which are included in the cohort default rate calculation, the institution has 30 calendar days to file its appeal with the Secretary. An appeal is considered filed when it is received by the Secretary. If the institution is also filing an appeal under paragraph (d)(1)(i) of this section, the institution may delay submitting its appeal under this paragraph until the appeal under paragraph (d)(1)(i) is submitted to the Secretary. As part of the appeal, the institution must submit the following information to the Secretary:

Loan servicing appeal requirements

(A) A list of the loans which the institution alleges would, due to improper loan servicing or collection, result in an inaccurate or incomplete calculation of the cohort default rate.

(B) Copies of all of the loan servicing or collection records

and any other evidence relating to a loan that the institution believes has been subject to improper servicing or collection. The records must be in hard copy or microfiche format.

(C) A copy of the lists provided by the guaranty agencies under paragraph (e)(2) of this section.

(D) An explanation of how the alleged improper servicing or collection resulted in an inaccurate or incomplete calculation of the cohort default rate.

(E) A summary of the institution's appeal listing the number of loans insured by each guaranty agency that were included in the calculation of the institution's cohort default rate and the number of loans that would be excluded from the calculation of that rate by application of the results of the review of the sample of loans provided to the institution to the population of loans for each guaranty agency.

(F) A certification by an authorized official of the institution that all information provided by the institution in the appeal is true and correct.

(v) The Secretary or his designee reviews the information submitted by the institution and issues a decision.

(A) In making a decision under this paragraph the Secretary presumes that the information provided by the guaranty agency is correct unless the institution provides substantial evidence showing that the information maintained by the guaranty agency is not correct.

(B) If the Secretary finds that the evidence presented by the institution shows that some of the loans included in the sample of loan records reviewed by the institution should be excluded from calculation of the cohort default rate under paragraph (f)(2) of this section, the Secretary reduces the institution's cohort default rate, in accordance with a statistically valid methodology, to reflect the percentage of defaulted loans in the sample that should be excluded.

(vi) The Secretary notifies the institution, in writing, of the decision.

(vii) An institution may not seek judicial review of the Secretary's determination of the institution's cohort default rates until the Secretary or his designee issues the decision under paragraph (f)(3)(v) of this section.

(viii) For purposes of this paragraph, a default is considered to have been due to improper servicing or collection only if the borrower did not make a payment on the loan and the institution proves that the lender failed to perform one or more of the following activities:

Defaults that are due to improper loan servicing and collection

(A) Send at least one letter (other than the final demand letter) urging the borrower or endorser to make payments on the loan if the lender was required to send such letters;

(B) Attempt at least one phone call to the borrower or endorser, if such attempts were required;

(C) Submit a request for preclaims assistance to the guaranty agency, if such a request was required;

(D) Send a final demand letter to the borrower, if required; and

(E) If required, the lender did not submit a certification (or other evidence) that skip tracing was performed.

(i) Effect of decision.

An institution may challenge the calculation of a cohort default rate under this section no more than once. The Secretary's determination of an institution's appeal of the calculation of a cohort default rate is binding on any future appeal by the institution. An institution that fails to challenge the calculation of a cohort default rate under this section within 10 working days of receiving notice of the determination of the cohort default rate is prohibited from challenging that rate in any other proceeding before the Department.

(j) Review of default rate data.

Draft data review process

Effective on October 1, 1994, an institution has an opportunity to review and correct the information provided to the Secretary by the guaranty agencies for the purpose of calculating a cohort default rate on the loans to be included in the calculation of the institution's cohort default rate before the final rate is calculated.

(1) (i) Once the Secretary has received the information used in calculating the cohort default rates from the guaranty agencies, the Secretary calculates draft cohort default rates for each institution.

(ii) The Secretary sends all institutions with draft cohort default rates equal to or in excess of 20 percent, a copy of the information provided by the guaranty agencies in regard to loans included in the institution's cohort default rate.

(iii) An institution with a draft cohort default rate less than 20 percent will receive a notice of the draft default rate and may request a copy of the information provided by the guaranty agencies within 10 working days of receiving the notice from the Secretary. Upon receiving the request from the institution, the Secretary will send the institution a copy of the information requested. The time frames provided in this paragraph will not start until the institution receives the information from the Secretary.

(2) Within 30 calendar days of receiving the default rate information from the Secretary, the institution must notify the guaranty agency of any information included in the default rate data that it believes is incorrect. The institution must also provide the guaranty agency with evidence that it believes supports its contention that the default rate data are incorrect.

(3) Within 30 days of receiving the institution's challenge under paragraph (h)(2) of this section, the guaranty agency shall respond to the institution's challenge. The guaranty agency's response must include a response to each allegation of error made by the institution and any evidence supporting the agency's position.

(4) The guaranty agency shall provide a copy of its response to the institution to the Secretary and identify any errors in the information previously submitted to the Secretary.

(5) The information used to calculate cohort default rates will be changed to reflect allegations of error made by an institution, confirmed by the guaranty agency and accepted by the Secretary prior to releasing final cohort default rates.

(6) The draft default rate issued by the Secretary under paragraph (h)(1) of this section may not be considered public information and may not be otherwise voluntarily released by the Secretary or the guaranty agency.

(7) An institution may not appeal a cohort default rate under paragraph (d)(1) of this section on the basis of any alleged errors in the default rate information unless errors were identified by the institution in a challenge to its preliminary default rate under paragraph (h) of this section.

APPENDIX F

User Comments on the *FY 1996 Official Cohort Default Rate Guide*

Contents

User Comments Worksheet 3

User Comments on the *FY 1996 Official Cohort Default Rate Guide*

Please TYPE or PRINT the following. The Department may contact you for further clarification on your comments.

Organization Name: _____
School OPE-ID # (if applicable): _____
Organization Mailing Address: _____
_____
_____
Person completing this form: _____
Telephone number: (____)_____

Was the *Guide* easy to read and understand? ❑ YES ❑ NO

Did you like the separation of appeal information from general cohort default rate information? ❑ YES ❑ NO

Did this format make it easier for your school or Guaranty Agency to prepare its appeal/response? ❑ YES ❑ NO

Were the instructions and spreadsheets easy to follow and understand? ❑ YES ❑ NO

Are there issues that were not discussed in the *Guide* that you would like to see in future editions? ❑ YES ❑ NO

General comments
_____
_____
_____
_____
_____
_____

If sent by **commercial overnight mail/courier delivery**, send your comments to:

U.S. Department of Education
Default Management Division
Attn: Guide Comments
ROB-3, Room 3905
7th and D Streets, SW
Washington, DC 20202-5353

If sent by **U.S. Postal Service**, send your comments to:

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Attn: Guide Comments
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